

Quality, Legitimacy and Global Governance: A Comparative Analysis of Four Forest Institutions

by

Timothy Mark Cadman MA

Submitted in fulfilment of the
Requirements for the Degree of Doctor of Philosophy
University of Tasmania September 2009

Thesis Statement

This thesis contains no material that has been accepted for degree or diploma by the University or any other institution, except by way of background information and duly acknowledged in the thesis, and to the best of the candidate's knowledge and belief no material previously published or written by another person except where due acknowledgement is made in the text of the thesis, nor does the thesis contain any material that infringes copyright.

Tim Cadman
September 2009

Statement on Authority of Access

This thesis may be made available for loan and copying in accordance with the *Copyright Act* 1968.

Tim Cadman
September 2009

Faculty of Arts
School of Government
University of Tasmania
Newnham Campus
Launceston
Tasmania 7250
Australia

Abstract

This dissertation is a theoretical and evaluative study of the quality of global governance, explored through case studies of four global institutions in the environmental policy domain addressing forest management: the Forest Stewardship Council, the ISO 14000 Series (Environmental Management Systems), the Programme for the Endorsement of Forest Certification, and the United Nations Forum on Forests. It examines the international relations/international politics and comparative politics/public administration literature concerning the institutional theory and practice of contemporary governance, particularly the nature of democracy beyond the nation-state. Given the ongoing evolution of global governance, it is important to determine whether the institutions in which actors operate are sufficiently effective to address the problems of the contemporary era. Previous methods of evaluating governance quality have been based largely upon input/output legitimacy. Using a theoretical framework based around 'new' governance, the thesis argues that contemporary global governance is best understood as being built around 'participation as structure' and 'deliberation as process', and that the more deliberative the interactions within a given institution, the higher the quality of governance. The method of analysis is built upon a new arrangement of the accepted attributes of 'good' governance, using a set of qualitative principles, criteria and indicators, and applied to the structures and processes of governance. Recognising that contemporary global institutions are manifold, the analytical framework also locates the institutions typologically, determined by their source of authority (state/non-state), democratic mode (aggregative/deliberative) and degree of governance innovation (old/new). The research findings confirm that the more deliberative the model of democratic interaction, the better the systems' quality of governance and by extension, the more legitimate the institution.

Acknowledgements

I would like to thank all those who have assisted me in the preparation of this work. I cannot go any further without honouring my wife and partner Beth Gibbings and my son Tristan Cadman-Gibbings for their support throughout the course of what has ultimately been a decade-long process. I am deeply grateful to my supervisor Dr Fred Gale of the School of Government in the Faculty of Arts at the University of Tasmania, who has demonstrated a finely-tuned ability in knowing when to engage in discussion, make detailed comments, or remain hands off. I would also like to thank Dr Marcus Haward, my assistant supervisor, for his timely observations. I have greatly enjoyed this apprenticeship, made possible through the generosity of the Australian Research Council. I would also like to extend my gratitude to everyone who agreed to be interviewed as part of this study and who gave so generously of their time. My recognition goes also to Eric Gibbings, for his assistance in explaining how to model three-dimensional concepts two dimensionally, and to Trish Ashton, for transcribing one of my interviews, and to my niece Fern Cadman for her last-minute corrections. To all those I have otherwise neglected to acknowledge, I offer my apologies and appreciation. Finally, for the copious amounts of paper used in production of this work, I acknowledge the trees.

Table of Contents

Thesis Statement	ii
Statement on Authority of Access	iii
Abstract	iv
Acknowledgements	v
Table of Contents	vi
Illustrations	xi
List of Figures	xi
Index of Tables	xi
List of Abbreviations	xiii
 1) Introduction	 1
Background	1
Research Focus, Central Question and Argument	5
Key Conceptual Elements of Contemporary Governance	8
Legitimacy and the Determination of Governance Quality	12
Method	14
Thesis Structure	17
 2) Global Governance and the Environment: Theory and Practice	 23
Background: Globalisation and its Relationship to Governance	24
Global Governance Perspectives	26
Theories of Governance in the International Politics Literature	28
Theories of Governance in the Comparative and Public Policy Literature	33
Institutional Expressions of Governance	39
Legitimacy and the Quality of Global Governance	43
Governance Arrangements	47
Interest Representation	47
Accountability and Transparency	51
Decision Making	55
Implementation	59
Conclusion	60

3) Global Governance and Forest Management: An Analytical Framework	77
Part I	
Global Forest Governance: From the Old to the New	78
Historical Overview	79
Contemporary Forest Governance	84
Part II	
Analytical Synthesis and Framework for Evaluating Governance Quality	91
Classifying Governance	92
Quality of Governance	97
Conclusions	107
4) Forest Stewardship Council (FSC)	119
Historical Overview	120
Origins, Institutional Development and Early Controversies	120
Consolidation and Growth	128
Governance Within FSC	133
System Participants	133
Institutional Arrangements	135
Standards Development, Accreditation, Chain of Custody and Certification	140
Institutional Typology	145
Critical Analysis	147
Interest Representation	148
Organisational Responsibility	163
Decision Making	173
Implementation	183
Governance Quality of FSC	196
Method	196
Commentary	196
Postscript	197
FSC Strategic Review	197
Conclusions	200

5) ISO and the 14000 Series (Environmental Management Systems)	244
Historical Overview	244
A Brief History of TC 207	248
Forestry-related Controversies Within TC 207	251
Governance Within ISO	258
System Participants	258
Institutional Arrangements	260
Standards Development	264
Institutional Typology	267
Critical Analysis	270
Interest Representation	270
Organisational Responsibility	285
Decision Making	291
Implementation	302
Governance Quality of ISO	315
Commentary	315
Postscript	316
Developing NGO Relations	316
Conclusions	318
6) Programme for the Endorsement of Forest Certification Schemes (PEFC)	352
Historical Overview	353
Origins and Institutional Development	353
Conflict with NGOs and External Relations Initiatives	358
Governance Within PEFC	367
System Participants	367
Institutional Arrangements	368
Standards Development, Accreditation, Chain of Custody and Certification	371
Institutional Typology	373
Critical Analysis	376
Interest Representation	376
Organisational Responsibility	390
Decision Making	398
Implementation	407

Governance Quality of PEFC	419
Commentary	419
Postscript	420
PEFC Governance Review	420
Conclusions	422
 7) United Nations Forum on Forests (UNFF)	 463
Historical Overview	464
International Forest Deliberations and the Creation of UNFF	465
Governance Within UNFF	481
System Participants	481
Institutional Arrangements	482
Standards Development	486
Institutional Typology	487
Critical Analysis	489
Interest Representation	489
Organisational Responsibility	508
Decision Making	516
Implementation	526
Governance Quality of UNFF	538
Commentary	538
Postscript	539
UNFF-7 and Beyond	539
Conclusions	541
 8) Comparative Analysis	 568
General Performance at the Principle and Criterion Levels	569
Discussion	569
Thematic Investigation at the Criterion and Indicator Levels	571
Interest Representation	571
Organisational Responsibility	575
Decision Making	579
Implementation	583
Comparative Institutional Performance	590
Summary	590

Typological Comparison and Preliminary Conclusions	593
9) Conclusions	600
Bibliography	612
Appendices	636
Appendix I	636
Appendix II	638
Appendix III	639

Illustrations

List of Figures

Figure 3.1 Framework of analysis for four hypothetical governance institutions	96
Figure 3.2 Conceptual model of contemporary global governance	100
Figure 3.3 Institutional model of governance quality	105
Figure 4.1 Structure of the Forest Stewardship Council	137
Figure 4.2 International standards development process within FSC following accepted practice	140
Figure 4.3 National FSC standards development	142
Figure 4.4 The forest certification process	144
Figure 4.5 Institutional classification of FSC	146
Figure 5.1 Structure of ISO	262
Figure 5.2 Structure of TC 207	265
Figure 5.3 The Environmental Management System model for ISO 14001	266
Figure 5.4 Institutional classification of ISO	269
Figure 6.1 Structure of PEFC	369
Figure 6.2 Structural and procedural arrangements for standards setting and related activities within the PEFC system	371
Figure 6.3 Institutional classification of PEFC	375
Figure 7.1 Structure of UNFF	485
Figure 7.2 Institutional classification of UNFF	488
Figure 8.1 Institutional classification of governance type: UNFF, PEFC, FSC, ISO	596

Index of Tables

Table 3.1 Comparison of non-state market-driven governance sources of authority with other forms of governance	87
Table 3.2 Three typologies of governance 1997-2006	93
Table 3.3 Hierarchical framework for the assessment of governance quality	104
Table 3.4 Evaluative matrix of governance quality	106
Table 4.1 Composition of FSC membership 1997, 2003 and 2006	154
Table 4.2.1 Composition of FSC Board of Directors 2003	155
Table 4.2.2 Composition of FSC Board of Directors 2007	155
Table 4.3 Summary of donations made to FSC A.C. through to 1999 in US Dollars	160

Table 4.4 Summary of FSC revenues in 1994, 1999 and 2004 in US Dollars	161
Table 4.5 Evaluative matrix of FSC governance quality	197
Table 5.1 Stages in the development of ISO International Standards	262
Table 5.2 ISO member bodies and technical committee participation by ISO geographical region	276
Table 5.3 Comparison of sector representation (industry, government, NGOs) within two ISO standard setting bodies relevant to environmental and social policy	277
Table 5.4 Evaluative matrix of ISO governance quality	315
Table 6.1 List of interests represented on the Board of Directors of PEFC Council	378
Table 6.2 Sectors listed as being included in national schemes from Europe, South America and Australasia	379
Table 6.3 Evaluative matrix of PEFC governance quality	419
Table 7.1 NGO response on the extent to which participation in UNFF's programmes and processes for implementing the Proposals for Action has been enhanced	491
Table 7.2 Evaluative matrix of UNFF governance quality	538
Table 8.1 Comparative matrix of governance quality	569
Table 8.2 Interest representation	571
Table 8.3 Organisational responsibility	575
Table 8.4 Decision making	579
Table 8.5 Implementation	583
Table A III.1 List of key informants	639

List of Abbreviations

ABU	Accreditation Business Unit (FSC)
AFPA	American Forest and Paper Association
AFS	Australian Forestry Standard
ANEC	European Association for the Co-ordination of Consumer Representation in Standardisation
ASI	Accreditation Services International (FSC)
BSI	British Standard Institution
CAG	Chairman's Advisory Group (ISO)
CASCO	Conformity Assessment Committee (ISO)
CBD	United Nations Convention on Biological Diversity
CCD	United Nations Convention to Combat Desertification
CD	Committee Draft (ISO)
CEI Bois	European Confederation of Woodworking Industries
CEPF	Confederation of European Private Forest Owners
CEPI	Confederation of European Paper Industries
CERFLOR	Sistema Brasileiro de Certificação Florestal
Certfor	Certificación Forestal en Chile
C&I	Criteria and indicators
CI	Conservation International
CIFOR	Centre for International Forestry Research
CoC	Chain of custody
COFO	Committee on Forestry (FAO)
COPOLCO	Consumer Policy Committee (ISO)
CPF	Collaborative Partnership on Forests (UNFF)
CPPA	Canadian Pulp and Paper Association
CSA	Canadian Standards Authority
CSD	United Nations Commission on Sustainable Development
CSR	Corporate Social Responsibility
DEVCO	Developing Countries Committee (ISO)
DEVPRO	Developing Countries Programme (ISO)
DFA	Defined Forest Area (PEFC)
DIS	Draft International Standard (ISO)
EA	European Co-operation for Accreditation

ECOS	European Environmental Citizens' Organisation for Standardisation
ECOSOC	Economic and Social Council of the United Nations
EEB	European Environmental Bureau
EMAS	Environmental Management and Audit scheme
ENGO	environmental non-governmental Organisation
EMS	Environmental Management System (ISO)
EU	European Union
FANC	Finnish Association for Nature Conservation (Suomen luonnon-suojeluliitto)
FAO	Food and Agriculture Organisation
FDIS	Final Draft International Standard (ISO)
FERN	Forests and the European Union Resource Network
FFCC	Finnish Forest Certification Council
FFCS	Finnish Forest Certification Scheme
FFIC	Finnish Forest Industries' Council (Metsäteollisuus ry.)
FLEG	Forest Law Enforcement and Governance
FLEGT	Forest Law Enforcement Governance and Trade
FMU	Forest management unit
FNE	France Nature Environnement
FNL	Finnish Nature League (Luonto-Liitto)
FSC	Forest Stewardship Council
GEF	Global Environment Facility (UN)
GRI	Global Reporting Initiative
IAF	International Accreditation Forum
IAF	International Arrangement on Forests (UN/UNFF)
ICC	International Chamber of Commerce
ICRAF	International Centre for Research in Forestry (World Agroforestry Centre)
IEC	International Electrotechnical Commission
IEG	International Environmental Governance (UNEP)
IFF	Intergovernmental Forum on Forests (UN)
IGO	Intergovernmental organisation
IISD	International Institute for Sustainable Development
ILO	International Labor Organisation
IMF	International Monetary Fund
INGO	International non-governmental organisation
INNI	International NGO Network on ISO

IPF	Intergovernmental Panel on Forests (UN)
IPO	Indigenous Peoples' Organisation
IS	International Standard (ISO)
ISA	International Federation of National Standardising Associations
ISEAL	International Social and Environmental Accreditation and Labelling Alliance
ITTA	International Tropical Timber Agreement (ITTO)
ITTO	International Tropical Timber Organisation
IUCN	World Conservation Union (formerly the International Union for the Conservation of Nature)
IUFRO	International Union of Forest Research Organisations
LBi	Legally Binding Instrument
LEI	Lembaga Ekolabel Indonesia
MCPFE	Ministerial Council for the Protection of Forests in Europe
MSC	Marine Stewardship Council
MSD	Multi-stakeholder Dialogue (UNFF)
MTCC	Malaysian Timber Certification Council
MTK	Central Union of Agricultural Producers and Forest Owners
MYPOW	Multi-year Programme of Work (UNFF)
NFP	National Forest Programme (UNFF)
NGO	Non-governmental organisation
NI	National Initiative (FSC)
NLBI	Non-legally Binding Instrument
NP	New Proposal for a Work Item (ISO)
NSMD	Non-state market driven
ODA	Official development assistance (UN)
PEFC	Programme for the Endorsement of Forest Certification schemes
PEFCC	PEFC Council
PfA	Proposals for Action (UNFF)
P&C	Principles and Criteria (FSC)
PC&I	principles, criteria and indicators
PROFOR	Programme on Forests (the World Bank)
PWI	Preliminary Work Item (ISO)
REMCO	Council Committee on Reference Materials (ISO)
SAG	Strategic Advisory Group (ISO)
SAGE	Strategic Advisory Group for the Environment (ISO)
SC	Sub-committee (ISO)

SFI	Sustainable Forestry Initiative
SFM	sustainable forest management
SME	Small and medium sized enterprise
TAG	Technical Advisory Group (ISO)
TBT	Technical Barriers to Trade (WTO)
TC	Technical Committee (ISO)
TFAP	Tropical Forestry Action Plan (FAO)
TFRK	Traditional forest-related knowledge (UN/UNFF)
TG	Task Group (ISO)
TMB	Technical Management Board (ISO)
TPM	Technical Programme Manager (ISO)
TR	Technical Report (ISO)
UN	United Nations
UNCED	United Nations Conference on Environment and Development
UNCHE	United Nations Commission on the Human Environment
UNCTAD	United Nations Conference on Trade and Development
UNCTC	United Nations Centre for Transnational Corporations
UNDESA	United Nations Department of Economic and Social Affairs
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNESCO	United Nations Educational Cultural and Scientific Organisation
UNFF	United Nations Forum on Forests
WBCSD	World Business Council for Sustainable Development (formerly Business Council for Sustainable Development)
WD	Working Draft (ISO)
WG	Working Group (ISO)
WHO	World Health Organisation
WTO	World Trade Organisation
WWF	World Wide Fund for Nature (World Wildlife Fund)

Introduction

Background

The emergence of international intergovernmental institutions in the immediate post Second-World War period, particularly those associated with the United Nations and the Bretton Woods system, represent an important step in the development of world economic, social and political relations. Previously, decision making powers had rested almost exclusively within the nation-state and when these decisions resulted in conflict between nations, disputes were resolved principally under the Westphalian model of international diplomacy, in which state-centred sovereign authority remained unchallenged. Today, this sovereignty still remains intact, but is now increasingly the subject of an international system, in which national governments are rendered at least partially accountable to each other through such bodies as the United Nations (UN). These developments have resulted in a more global approach to international relations as can be seen in the growth of a range of intergovernmental institutions such as the International Monetary Fund (IMF), the World Health Organisation (WHO) and the Food and Agriculture Organisation (FAO).

On a national level, governments still act as the chief political facilitators, making decisions that subordinate the needs of the certain societal sectors in favour of others. Citizens may be disadvantaged in favour of the market for example, or conversely, corporate interests curbed to protect the disadvantaged from the excesses of the market. International agreements, including the 1948 Universal Declaration of Human Rights, the 1966 International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights, and

subsequent treaties and declarations between contracting states have attempted to include previously marginalised groups in political decision making. These include women and ethnic and cultural minorities, although such initiatives have met with varying success. Nevertheless, these agreements should still be interpreted as redefining the traditional understanding of the social contract as one between the individual and the state towards one in which an emergent world polity has become the location for an often heated dialogue between national governments and civil society over universal social, economic and political rights, and particular local conditions.

But despite these changes, democratic participation in decision making, if it occurs at all, still takes place largely within the nation-state, and political participation on a global level also remains largely in the state's hands. The adequacy of this traditional, intergovernmental, approach to problem solving is being called into question from a number of crosscutting directions. Firstly, although national sovereignty remains formally intact, it is coming under increasing pressure due to the supranational nature of many of the UN's initiatives as well from those countries that subscribe actively to its agenda, and from regional integration initiatives, such as the European Union. Secondly, citizens themselves are also questioning the political sovereignty of the nation-state in this new era of debate around universal rights. Thirdly, both states and citizens are either supportive or critical of these new and emerging global arrangements, depending on whether they are the beneficiaries or victims of the social, political and economic change that has occurred. Change has also been accelerated by the integration of global financial activities, information and communication technologies and increasing scientific knowledge, which in part contribute to the

contemporary phenomenon referred to as globalisation. These factors make for a complex debate regarding the role, rights and obligations of both the individual and the state in this, the post-modern era, which is characterised by its complexity, uncertainty and risk.

At the same time however, and historically commensurate with the rise of globalisation, it is possible to discern an increasing ‘environmentalisation’ of global institutions. An important first step, sponsored by the United Nations Educational Cultural and Scientific Organisation (UNESCO), was the establishment of the International Union for the Conservation of Nature and Natural Resources (IUCN, now the World Conservation Union) in 1948.¹ In 1949, the UN’s Economic and Social Council (ECOSOC) followed by convening the Scientific Conference on the Conservation and Utilization of Resources. This event was confined to information sharing regarding resource use and conservation, and it was not until the United Nations Commission on the Human Environment (UNCHE) in 1968 that non-state interests began to play a more active role in the development of institutional arrangements and action plans. The United Nations Environment Programme (UNEP) and the Stockholm Declaration of 1972, both of which arose out of the UNCHE, placed the imperative for environmental action on the global level, and set the future for discussions about the environment within a normative context. For the next few years UNEP set about fulfilling its mandate on a variety of international issues through close collaboration and coordinated action with governments, intergovernmental organisations (IGOs), non-governmental organisations (NGOs), UN bodies, and a range of private interests.² Global action on the environment reached a high point

with the United Nations Conference on Environment and Development (UNCED), held in Rio de Janeiro in 1992.

These types of institution are constituted from of an ever-increasingly diverse range of both state and non-state actors. This has created a premium on institutional 'buy-in', meaning that governments in particular have had to become more collaborative -- that is more participatory and deliberative -- in their dealings with other interested parties. This collaboration has encouraged the proliferation of conferences, roundtables, dialogues and other forums, many of which recognise the importance of 'multi-stakeholders'. The substantive outcome of Rio, *Agenda 21*, embedded non-state participation in the normative framework of international environmental policy and the role of non-state interests in environmental decision making at all levels was formally acknowledged.³ The expectation for increased citizen participation in decision making that these developments have brought about therefore raise some dynamic tensions between state and non-state actors in the creation of global environmental policy.

The changing social, environmental and economic conditions that have arisen as a consequence of globalisation consequently present some major challenges to contemporary democracy, both in terms of how to structure institutional responses in ways that effectively deal with global problems, and how to include newly-enfranchised actors in decision making processes. With no one single nation state acting as the global political facilitator -- at least officially -- there has been an evolution in the delegation of authority away from traditional *government* towards the more abstract concept of *governance*. The business of decision making is no longer exclusively the domain of the nation-state, and new global processes have generated alternative forms of global public-domain institution, characterised by

the interplay between traditional government, the global corporate sector and civil society.

This transition from government to governance is neither straightforward nor uncontested, and there are tensions between the universal aspirations embedded in the new world order and their expression on a local level. Alternative institutional arrangements have not replaced the sovereignty of the nation-state, but they can both complement, or compete with, conventional national and international institutions. These arrangements are exemplified by the growing number of social-environmental, market-based initiatives built around the concept of sustainable development. A fundamental shift is occurring in the national and international public/private sector balance, which is delivering opportunities for a global form of governance, in which both civil society and corporations are playing a key role. The practice of democracy in this globalised context questions the relevance of traditional modes of democratic governance, and its ability to effectively address global problems, or even to represent the interests of state and society in a globalised world, particularly when the boundaries between public and private authority -- and national and supranational responsibilities -- are becoming increasingly blurred. This reconfiguration away from power located geographically within the nation-state to one within a global landscape is already happening, both in terms of theory and practice, and there is clearly a need to understand this process in order to determine how democracy can be rendered adequate in an era of globalisation.⁴

Research Focus, Central Question and Argument

This ongoing reconfiguration of power challenges the validity of hitherto territorially based systems of democracy, in which the individual's political

participation is limited almost exclusively to electing representatives to make decisions on their behalf. Consequently, the question arises as to whether the traditional democratic approach is adequate for a world in which interaction occurs in a non-spatial system where multiple interests seek to make decisions whose social, environmental and economic importance transcends borders. The reconfiguration of power outlined above questions whether participation within current institutions of global governance is either sufficiently comprehensive, or ‘deep’ enough to represent those interests required for decision making processes to solve universally significant problems.

Deforestation serves as a case in point. Deforestation has been attributed to a wide range of causes including international development and debt policies, population growth, poverty, drug cultivation, wars and the role of the military, land tenure inequities and natural causes.⁵ Whilst almost everyone is prepared to accept there is a problem of over-extraction, governments face considerable political difficulties in determining how to best manage forests when they are used by many individuals in common, and there is conflict over what action to take.⁶ Forest management also exists within a global market system where the cornucopian or Promethean discourse denies the existence of environmental limits; it compels ever-increasing production in a world that is limited.⁷ As a consequence, global deforestation continues to escalate. Government representatives meet to make decisions regarding management in global forums that exist beyond the electoral mandate of the national citizen. But contemporary issues, which are universal in significance, such as the management of the world’s forest ecosystems, are not always contained within the territorial space of any single country.

The non-territorial and contradictory nature of the forest problematic in particular raises some fundamental questions regarding the practice of global governance generally. Although there is a growing inclusion of non-state interests in decision making, effective corrective mechanisms to address problems remain limited due largely to the rather powerless nature of many of the existing, conventional, international regulatory institutions. This should cause those with interest in contemporary global governance to want to understand what it is about its current practice that renders certain institutions ineffective.

The central research question of this thesis therefore asks, “*How can governance systems be distinguished one from another and how can they be evaluated in terms of their effectiveness?*” This question is especially relevant in the current era, as the demarcation between public and private is becoming blurred, and the rights and responsibilities of the state, corporations, and civil society one to another within the new paradigm of globalisation have become increasingly complex. The question also contains an implied challenge to the adequacy of traditional approaches to decision making and the interests they serve. Given this analysis, the effectiveness of global governance turns to a considerable degree on the arrangements for democratic participation within contemporary global institutions.

In terms of forest governance in particular, the subject under consideration in this dissertation, this question relates to the standards and regulations developed, and the extent to which they are relevant on the universal level, applicable within regional or national contexts, and capable of solving what is both a global and local social, environmental and economic problem. The central thesis of this study is that, *Global institutions that utilise deliberative modes of interaction are better*

suited to the needs of the contemporary era than those using more traditional aggregative approaches. Of the existing global institutions with responsibility for forest management, the largely civil society initiative called the Forest Stewardship Council (FSC) proves to be most effective in response to the challenge of managing forests in an era of globalisation and environmental awareness. This thesis argues that FSC performs so well because it is markedly different from existing institutions that use aggregative models of democracy, whereby competition between divergent interests invariably results in social, economic or environmental conflict. Grounded as they are within the territorial confines of the nation state, such institutional approaches are no longer adequate in an era of globalisation, in which the need for collaboration to tackle global problems has become a pressing necessity.

Key Conceptual Elements of Contemporary Governance

To prove this thesis, it is necessary to understand why current methods of participation and deliberation in some existing forest-related institutions are not sufficient, and what it is about FSC's governance that makes it a more effective model. This study has explored these two concepts in some detail, and views them as functioning interdependently in contemporary governance. *Participation* has been described as the: "cornerstone of democracy [and] a categorical term for citizen power"; it represents a significant mechanism for social reform, as it redistributes power between the affluent and the disadvantaged, enabling them to share in the same benefits of society, and without which "the redistribution of power is an empty and frustrating process."⁸ *Deliberation* is a specific method of interaction, markedly different from the traditional practice of aggregative democracy. It occurs when problems are discussed with a view to developing

solutions through cooperation and joint agreement and in which rational discourse contributes to problem solving.⁹ The designation of democracy as aggregative or deliberative is a critical theoretical method of interpreting the particular expression of a given democratic model, and is characterised as consisting of competitive versus cooperative political interaction.¹⁰

It is important to understand the conceptual evolution in thinking about governance in the wake of globalisation, particularly the emphasis on deliberative approaches to decision making and how these new approaches are reflected in the environmental arena. The conceptual framework of this study is consequently informed by what can be termed ‘new governance’ literature.¹¹ The centrality of participation and deliberation to the new modes of what is referred to as social-political interaction form the basis of the institutional analysis in this study. Here, contemporary governance is conceived of in terms of participation as structure and deliberation as process. This is an extension of the existing idea that governance is now to be understood in terms of both structure and process.¹² In such a context participation and deliberation have a functional significance beyond their particular expression in a given institution; it is not the institution per se, but rather how participation and deliberation occurs within it that determines the effectiveness of its governance.

A further and more complex result of the evolution of contemporary governance is its diversity, and how it is categorised in the literature. Most authorities are able to see a difference from earlier conceptions, generally described as being ‘top down’ in nature; contemporary governance by contrast is portrayed as being less command-and-control oriented.¹³ Beyond this, theorists dispute the number and types of contemporary governance. Classifications tend to

be grouped together around an understanding of governance as an essentially state-based phenomenon, or an aspect of globalisation, or a mixture of the two. These differences are explored in more detail in a subsequent chapter, but the point that needs to be made here, is that these disputes over the phenomenon of governance can make comparisons between theories difficult. Consequently, this study has chosen to understand the many types of contemporary global governance as being delineated by three broad parameters. These relate to the degree of *innovation* in governance (simply put, between ‘new’ and ‘old’ styles of governance), modes of *democratic practice* (between aggregative and deliberative approaches), and *source of authority* (state-centric or non-state). This approach is less of a ‘theory of governance’ and more of conceptual method for discussing and comparing individual institutions within the ‘universe’ of contemporary governance. Knowing where an institution is located will provide useful information for determining the general contribution of these parameters to the overall performance of an institution, most notably the democratic mode employed.

In order to explore this discussion within its global context, this study has chosen to examine *global institutions of forest governance*, and *forest management certification* in particular. Forest governance provides an ideal focus for this study, since its multi-sectoral, participatory nature most closely reflects the evolving relations brought about by globalisation between socially, economically or environmentally-oriented actors, who have an interest in solving both a universal environmental problem (unsustainable forest management, resulting in deforestation), and its particular local manifestations.¹⁴ In totality, the interactions within a given institution represent the major components of what can

be termed governance systems, and what structures and processes these systems utilise yields important information about the efficacy of a specific global institution under investigation to the task of managing forests in the contemporary era.

Reflecting the complexity of contemporary governance generally, forest governance is also expressed in a number of different models.¹⁵ This situation is reinforced by the market-driven emphasis inherent in sustainable development, and exemplified by the rivalry -- explored in detail in this study -- between forest management certification schemes. Forest certification has become the subject of numerous studies.¹⁶

Some core concepts require definition at this point, as they are relevant to, or impinge upon, all the forest governance systems investigated. Certification should be understood as “a process, which results in a written quality statement (a certificate) attesting to the origin of raw wood material and its status and/or qualifications following validation by an independent third party.”¹⁷ A key objective of certification is to promote *sustainable forest management* (SFM), which is the process of managing a forest to ensure ongoing production whilst maintaining its environmental and social function.¹⁸ *Standards* are a set of principles, criteria and indicators (PC&I) that serve as a tool to promote SFM, as a basis for monitoring and reporting or as a reference for assessment of actual forest management. A *principle* is a fundamental rule or aspect of forest management. *Criteria* are to be understood as states or aspects of forest management requiring adherence to a principle of forest certification. *Indicators* are qualitative or quantitative parameters, which are assessed in relation to a criterion, and contribute to the overall determination of the quality of forest management.¹⁹

These are introduced at this point since the use of PC&I as a means of determining the impacts of management within the forest certification literature is adopted by the author as part of the study's conceptual framework and as an evaluative tool in its methodology. The use of PC&I is not unique to forest science, but the importance of the hierarchical relationship between PC&I, has been overlooked in some quarters of political science.²⁰

Legitimacy and the Determination of Governance Quality

With the increasing privatisation of forest governance and with so many alternative approaches, choice in itself has become a problem for both consumers and policy makers alike. This is problematic from a governance perspective, as it is becoming ever more difficult to distinguish 'good' schemes from 'bad'. Some forest governance systems appear to understand SFM as a means of substantially improving forest management beyond the existing status quo; others may simply be free-riding on the back of previously-developed programmes by adopting easily achievable elements, whilst ignoring others, or even worse, setting themselves up as 'decoy' institutions.²¹ In the absence of such standards -- ironically, such an important feature in many of the governance systems themselves -- there is confusion over what constitutes 'good' governance, and establishing its presence in a given scheme is at present a somewhat arbitrary process.

Much of the assessment debate revolves around the question of legitimacy, and from whence it is derived, reflecting a common pre-occupation in the broader governance literature. Legitimacy in the context of this study is understood as being derived from *the sum total of both the inputs, outputs and outcomes of a governance system*. Inputs are understood as participatory structures and

deliberative processes; outputs as substantive products such as standards and policies; and outcomes in terms of the way in which the substantive products of a system exercise a longer-term influence over actors' behaviour, and the status of the problem itself. In this formulation legitimacy is synonymous with the effectiveness, or quality, of a governance system: the ends do not justify the means; indeed, it is the means, which largely determine the ends. One of the main purposes of this study is therefore to develop and test an evaluative framework for determining governance quality, capable of incorporating the many different systems of governance, whilst providing a common template for assessment. This has required moving beyond particular definitions of 'good' governance and approaching the problem of assessment by comparing multiple systems in terms of the structures and procedures of governance underlying them.²² 'Good' governance in this context could therefore be defined as *the effective interaction between the inputs, outputs and outcomes of a given institution*.

The quality of contemporary environmental governance is consequently evaluated in this study by examining the participatory structures, deliberative processes, substantive products, and longer-term outcomes of a given institution, as it is these, which ultimately determine its effectiveness. *Effectiveness* here continues to be defined as a measure of the performance of a given institution in relation to a set of objectives, but in this study it is ultimately evaluated at the principle, rather than indicator level.²³ In the hierarchical framework of assessment developed in this study, 'good' governance is therefore not to be attributed to any single institutional arrangement, such as accountability, or transparency, and so forth. These are critically important, but function at a lower level of assessment, and represent specific indicators of performance, which

together make up the criteria, against which the structures and processes of governance are judged. In turn, these criteria contribute to the overall determination of performance at the principle level. Rather than evaluating the performance of an institution on the basis of a few individual attributes, this approach consequently looks at a governance system as a whole. In addition, by locating each institution within the ‘universe’ of contemporary governance, the overall performance of an institution can also be compared to its degree of innovation, democratic practice and source of authority. This provides important information concerning some of the broader parameters affecting quality of governance, most notably democratic practice.

Method

The broad objective of the research method adopted in this study is to determine whether a governance system that more closely adheres to a deliberative model, performs better than one that utilises more conventional democratic approaches. Four global institutions of forest governance were selected for an exploration of this objective by means of qualitative analysis.²⁴ The case studies are the Forest Stewardship Council (FSC), the International Standardisation Organisation (ISO) 14000 Series (Environmental Management Systems - EMS), the Program for the Endorsement of Forest Certification Schemes (PEFC), and the United Nations Forum on Forests (UNFF). UNFF provides an example of an existing forest-related intergovernmental model, whilst PEFC and FSC are both market-based certification programmes that address forest management, but are sufficiently different in their structures, processes and governance types to provide interesting comparisons. ISO 14000 has been included on account of its value as another global environmental governance system with an emphasis on environmental

management, and an associated certification programme.²⁵ The ISO 14000 Series does not deal specifically with forest management, although its standards can be applied to both forestry and forest products. It did initially commence discussions for the development of a forest-management specific standard, but this subsequently became a lower-level, technical, publication TR 14061. The specific institutional type of each case study is discussed in more detail in subsequent chapters.

Each of the four schemes have been selected on the basis of their different arrangements for interaction between social, economic and environmental interests on the global, national and local levels (both public and private, or state and non-state), the model of governance they employ, and democratic mode. Each of the institutions has been subjected to a review of primary documentation from the institution itself, secondary materials from scholarly commentators, and ‘grey’ literature generated by critics such as NGO commentators and consultants.

Interviews were also conducted with representatives from the main interests -- economic, environmental social and governmental -- that participate in forest governance, as well as with staff, from each of the institutions. The interviewees were selected based on their appearance in materials generated by each of the schemes and in the secondary literature, as noted by previous researchers, and on the recommendation of other interviewees. All were subjected to a similar set of questions, one for the institutional subjects, and one for sectoral informants. The questions were oriented around identifying the interviewees’ perspectives on the structural and procedural aspects of the governance system in question, including its establishment, rules and procedures, and outputs. The interviewees’ views were also sought on the strengths and weaknesses of the relevant systems, and the

general significance they attributed to participation. Interview subjects were placed into three groups for the purposes of commenting on their perspectives: *business* (consisting of forest-related enterprises, forest owners -- large and small -- and business professionals); *non-governmental organisations* (NGOs -- both social and environmental); and *others* (institutional, research, government, and special agencies, such as FAO). All subjects have been identified in the case studies by the date of their interview and the group into which they were placed, but not by name. The intention behind designating subjects in this way is to both preserve confidentiality, whilst still providing some indication, where relevant, of the views of business and NGO interests from a whole-of-sector perspective. Confidentiality was assured in order to solicit an open and frank assessment of each institution. A full list of interview participants is included in the Appendices. Given the number of interviewees (thirty seven overall, nine from business, fifteen from NGOs, thirteen from 'other') it has not been possible to divide the governmental, institutional, research and special agency informants into separate groups without risking revealing the identity of subjects. These interviews are used to complement and corroborate the literature examined, and to determine the views of interviewees regarding the governance arrangements of each of the case studies.

The data thus collected have been used to evaluate the performance of each institution against a set of PC&I of governance quality. The results are then correlated to the three broad parameters of contemporary governance, referred to above -- most notably the democratic mode employed. The intention behind this second analytical method is to determine whether those institutions that are more deliberative in their democratic form performed better than those that used more

traditional aggregative modes. This is to address the contention presented in this study, that global institutions that use deliberative modes of interaction, are better suited to the conditions of the contemporary era.

Thesis Structure

This introduction has outlined the background, central research question and argument, key conceptual framework elements, methodology and structure underpinning the study's central thesis. Following this, Chapter Two sets the scene for a more focussed discussion of contemporary governance. A brief review of the literature on globalisation establishes the context for changing perspectives on governance. It highlights the shift in focus away from state-based approaches founded on intergovernmentalism to hybrid public-private and civil-society based approaches. The purpose of this chapter is to introduce the reader to the evolution of contemporary governance theory and practice, and describe some of the recognised components of 'good' governance. Chapter Three focuses on forest governance, which is identified as a policy arena where the shift from 'old' governance institutions, exemplified by the International Tropical Timber Organisation (ITTO) and the Tropical Forestry Action Plan (TFAP) to 'new' governance institutions (such as forest certification schemes) is especially evident. The chapter argues that beyond merely noting the existence of this shift, there is a need for a more elaborate framework for assessing the quality of governance occurring within these 'new' institutions. It presents a typology of contemporary global governance, addresses the 'problem' of legitimacy by means of a conceptual model, introduces a set of PC&I for the analysis of institutional performance, and situates these within an evaluative framework, against which the case studies in subsequent chapters are assessed.

The next four chapters systematically investigate the governance arrangements of each of the case studies, commencing with FSC, and following with ISO, PEFC and UNFF.²⁶ After a history of the emergence, evolution and significant developments affecting each particular case study, a second section presents an overview of its governance system as a whole, including its typology. This is followed by an evaluation of the institution's performance and, using the sources of information discussed above, each indicator is critically assessed and provided with a rating. Subsequent to a postscript bringing each case study as up to date as possible, each chapter concludes with a synthesis of the findings and offers some preliminary observations on the particular institution investigated.

Chapter Eight provides a systematic comparison of the governance arrangements of all four case studies across the analytical framework of Chapter Three, highlighting similarities and differences. After a general discussion of the performance of all four case studies, a more detailed thematic investigation of each of the criteria and indicators follows. This section also explores some of the possible reasons underlying the differences and similarities between the performances of each institution and provides some concluding observations on each of the criteria. A final section summarises the performance of each case study and examines each institution in the light of the total quality of its governance system. The chapter concludes by commenting on the relationship between institutional type and performance.

Chapter Nine, the conclusion, summarises the dissertation, highlights its findings, identifies its weaknesses, demonstrates its significance, and points to avenues for further research. The Appendices contain a list of interview subjects, and the background materials associated with each of the interviews.

Endnotes

¹ Patricia Birnie, “The UN and the Environment”, in *United Nations, Divided World* ed. Adam Roberts and Benedict Kingsbury (Oxford: Oxford University Press, 2000) pp. 327-383 at p. 335.

² Birnie, “The UN and the Environment”, pp. 336-350.

³ United Nations, *Agenda 21: Programme of Action for Sustainable Development, Rio Declaration on Environment and Development, Statement of Forest Principles* (New York: United Nations Publications Department of Public Information, 1993), p. 10. An extract reads:

Environmental issues are best handled with the participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities ... and the opportunity to participate in decision making processes. States shall facilitate and encourage public awareness and participation by making information publicly available. Effective access to judicial and administrative proceedings, including redress and remedy shall be provided (ibid).

See also United Nations, *Agenda 21*, pp. 230-235. An extract from this text reads as follows:

27.1 Non-governmental organizations play a vital role in the shaping and implementation of participatory democracy. Their credibility lies in the responsible and constructive role they play in society ... independence is a major attribute of non-governmental organizations and is the precondition of real participation...

27.5 Society, Governments and international bodies should develop mechanisms to allow non-governmental organizations to play their partnership role responsibly and affectively in the process of environmentally sound and sustainable development...

29.5 Governments, business and industry should promote the active participation of workers and their trade unions in decisions on the design, implementation, and evaluation of national and international policies and programmes on environment and development (ibid).

⁴ The thinking in this section has been influenced by David Held, Anthony G. McGrew, David Goldblatt and Jonathan Perraton, *Global Transformations: Politics, Economics and Culture* (London: Polity Press, 1999) and John G. Ruggie, “Taking Embedded Liberalism Global: The Corporate Connection” in *Taming Globalisation: Frontiers of Governance* ed. David Held and Matthias Koenig-Archibugi (Cambridge: Polity Press, 2003), pp. 93-95. Another informing article, which covers much of the same ground is David Sonnenfeld and Arthur Mol’s “Globalization and the Transformation of Environmental Governance: An Introduction” *American Behavioral Scientist*, 45(9)(2002) pp. 1318-1339. On the emergence of a global system of universalistic norms and an associated rise of particularism, see James Spickard, “Human Rights, Religious Conflict, and Globalisation: Ultimate Values in a New World Order”, *International Journal on Multicultural Societies* 1(1) (1999) pp. 2-20. For an interesting analysis of the changes in contemporary perceptions of citizenship see Damian Tambini, “Post-national Citizenship”, *Ethnic and Racial Studies* 24 (2) (2001) pp. 195-217. On the changing nature of public and private interaction on the environment, see Robert Falkner, “Private Environmental Governance and International Relations: Exploring the Links”, *Global Environmental Politics* 3(2) (2003) pp. 72-

87. On the developments occurring within civil society in the current era, see Margaret E. Keck and Kathryn Sikkink in *Activists Beyond Borders: Advocacy Networks in International Politics* (New York: Cornell University Press, 1998).

⁵ David Humphreys, *Forest Politics: the Evolution of International Cooperation* (London: Earthscan, 1996), pp. 2-15.

⁶ Elinor Ostrom, *Governing the Commons: the Evolution of Institutions for Collective Action* (Cambridge: Cambridge University Press, 1990), p. 1. Ostrom made this argument in relation to fisheries, but it is equally relevant to forests.

⁷ John Dryzek, *The Politics of the Earth: Environmental Discourses* (New York: Oxford University Press, 1990), p. 45; Garrett Hardin "The Tragedy of the Commons", *Science*, 162 (3859) (1968), pp. 1243-8 at p. 1244.

⁸ Sherry Arnstein, "A Ladder of Citizen Participation" *Journal, American Institute of Planners* 35(4) (1969) pp. 216-224, at p. 216. Arnstein categorises the extent of participation into non-participation, tokenism and citizen power, and relates it to the level -- or rungs on the ladder -- of participation, described as manipulation, therapy (non-participation), informing, consultation, placation (varying degrees of tokenism), partnership, delegated power and citizen control (varying degrees of power).

⁹ While analogous to deliberative democracy, discourse theory is more grounded in the work of sociologist Jürgen Habermas. Although highly relevant to this thesis as a general principle it applies to any situated conversation rather than a given form of political democracy. It "conceives of morality as an authority that crosses boundaries between private and public spheres" and states that "only those action norms are valid in which all possibly affected persons could agree as participants in rational discourses" (Jürgen Habermas, *Between Facts and Norms. Contributions to a Discourse Theory of Law and Democracy* (Oxford: Blackwell Publishers Ltd., 1996) pp. 108-111 and pp. 458-459; see also Jürgen Habermas, "The Theory of Communicative Action", *A Critique of Functionalist Reason* (2) (Cambridge: Polity Press, 1987).

¹⁰ Iris Marion Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000) at pp. 1-26. See also John Dryzek, *Discursive Democracy* (Cambridge: Cambridge University Press, 1990) and Patrizia Nanz and Jens Steff, "Assessing the Democratic Quality of Deliberation in International Governance: Criteria and Research Strategies", *Acta Politica*, 40 (3) (2005), pp. 368-383, at p. 370.

¹¹ This term is used with caution, as it is meant to refer to "a new process of governing", as defined by Rod Rhodes, *Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability* (Buckingham: Open University Press, 1997), p. 48 (emphasis in original). This study concentrates on the idea that 'new' governance represents a range of more innovative approaches, rather than a specific theory of public administration, implemented by public agencies within the nation state, and exemplified by Lester Salomon, "The New Governance and the Tools

of Public Action: An Introduction”, *The Tools of Government: A Guide to the New Governance* ed. Lester Saloman (Oxford: Oxford University Press, 2002), pp. 1-41.

¹² Jon Pierre and B. Guy Peters, *Governance, Politics and the State* (London: Macmillan Press, 2000) p. 14.

¹³ See for example Pierre and Peters, *Governance, Politics and the State*, pp. 34-35 (in describing state-based, pluralist and corporatist notions of governance) or Rhodes, *Understanding Governance*, p. 145 (in examining EU regional policy networks in the UK before 1988); Jordan et al. point to a move away from command-and-control, to “soft” approaches in new environmental policy instruments generally (Andrew Jordan, Rüdiger K. W. Wurzel and Anthony Zito, “The Rise of ‘New’ Policy Instruments in Comparative Perspectives: Has Governance Eclipsed Government?” *Political Studies* 53 (2005) pp. 441-469 at p. 481). Glück et al. identify this change of approach in forest governance (Peter Glück, Jeremy Rayner, Benjamin Cashore, Arun Agrawal, Steven Bernstein, Doris Capistrano, Karl Hogl, Bernd-Markus Liss, Connie McDermott, Jagmohan S. Maini, Tapani Oksanen, Pekka Ollonqvist, Helga Pülzl, Rwald Rametsteiner and Werner Pleschberger, “Changes in the Governance of Forest Resources”, in *Forests in the Global Balance* ed. G. Mery, R. Alfaro, M. Kaninnen, and M. Lobovikov (Helsinki: IUFRO, 2005), pp. 51-74, at p. 51).

¹⁴ For a discussion on the interplay between civil society, globalisation, forest management and governance, see Gordon M. Hickey and John L. Innes, “Monitoring Sustainable Forest Management in Different Jurisdictions”, *Environmental Monitoring and Assessment* 108 (2005) pp. 241-260.

¹⁵ Glück et al., “Changes in the Governance of Forest Resources”, p. 55.

¹⁶ For example, see: Kristina A. Vogt, Bruce C. Larson, John C. Gordon, Daniel J. Vogt and Anna Fanzeres, *Forest Certification: Roots, Issues, Challenges and Benefits* (Boca Raton: CRC Press, 2000) and Ruth Nussbaum and Markku Simula *Forest Certification Handbook* (London: Earthscan, 2005).

¹⁷ Erik M. Lammerts van Beuren and Esther M. Blom, *Hierarchical Framework For The Formulation Of Sustainable Forest Management Standards* (Leiden: The Tropenbos Foundation, 1997), p. 34, citing H. G. Baharuddin and M. Simula, “Timber Certification in Transition. Study on the Development in the Formulation and Implementation of Certification Schemes for all Internationally-Related Timber and Timber Products”, report prepared for the International Tropical Timber Organisation, 1996.

¹⁸ Lammerts van Beuren and Blom, *Hierarchical Framework*, p. 35.

¹⁹ Lammerts van Beuren and Blom, *Hierarchical Framework*, p. 34.

²⁰ Criteria and indicators are used interchangeably for example in Nanz and Steff (“Assessing the Democratic Quality of Deliberation”, p. 373).

²¹ Radoslav S. Dimitrov, “Hostage to Norms: States, Institutions and Global Forest Politics”, *Global Environmental Politics* 5 (4) (2005), pp. 1-24 at p. 20.

²² It could be argued that the approach adopted in this study is partly constructivist in nature, particularly regarding the behaviour of actors within organisational structures, along the lines articulated in Peter Haas, “UN Conferences and Constructivist Governance of the Environment”, *Global Governance* 8 (1) (2002), pp. 73-91, at p. 74. Some aspects of the approach adopted here could also be interpreted as being both institutionalist and design-oriented. In all these critical theories there is an interest in organisations, but all are more state-centric, or regime-oriented, in their analysis of the effectiveness of global environmental governance. For a deeper analysis of these critical theories, see Mathias Koenig-Archibugi, “Introduction: Institutional Diversity in Global Governance”, in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi and Michael Zürn (London: Palgrave Macmillan, 2006) pp. 1-30 at pp. 3-12. This study, examines a wider range of institutional types and systems, and is not confined to any one critical approach, beyond the analytical framework outlined in Chapter 2.

²³ This definition of effectiveness follows Christopher Elliott, *Forest Certification: A Policy Perspective* (Bogor: Center for International Forestry research, 2000) p. 23.

²⁴ See Douglas Ezzy, *Qualitative Analysis: Practice and Innovation* (Crows Nest: Allen & Unwin, 2002) pp. xii-xiv.

²⁵ Dick Hortensius, “ISO 14000 and Forestry Management: ISO Develops ‘Bridging’ Document”, *ISO 9000-ISO 14000 NEWS* 4 (1999), pp. 11-20.

²⁶ Determining in which order to address the systems under investigation has proved something of a dilemma, and a decision has been made to look at each scheme in approximate chronological order of development. The FSC held its founding assembly in 1993, but was not legally constituted until 1996. Technical Committee 207, responsible for the development of the 14000 series, was established in 1993, but its first standard was not published until 1996. However, given that it is argued below that environmental non-governmental organisations began working on timber certification and labelling initiatives in 1988 and 1989 and that the 14000 series was largely the result of pre and post Earth Summit deliberations (1991-1993), the FSC is examined first. In the case of PEFC, the scheme was first launched in 1999, although it was substantially modified in 2003; nevertheless discussions on its development began, as outlined below, in 1995. UNFF, although a successor of two earlier Earth Summit initiatives, which existed between 1995 and 1999, was not constituted until 2000.

Global Governance and the Environment: Theory and Practice

Introduction

In the Introduction a question was raised as to how to differentiate between the many institutional varieties of contemporary governance and how to determine their effectiveness in an era of globalisation. Two key elements were introduced as being central to evaluating the governance of the institutions investigated: firstly, the manner in which participation is structured within such institutions; and secondly, the extent to which the procedures of these institutions follow deliberative approaches. The following chapter begins this task by placing the discussion of contemporary governance in the context of globalisation and providing an overview of governance theory and practice. It continues with a broad outline of the central perspectives of two broad schools of thought (referred to here as international relations/international politics and comparative politics/public policy), and investigates how these schools look at contemporary governance in terms of its structures and processes. A further section looks at how these structures and processes are expressed institutionally, describing a situation in which non-state participation and deliberative -- or discursive -- methods of reaching agreement are taking place within increasingly private, civic or hybrid public/private-civic institutions. These discussions inform a subsequent, more focussed, exploration as to how governance quality and legitimacy are understood in these contexts. This is followed by a more systematic examination of the key concepts associated with governance quality and legitimacy most notably interest representation, accountability and transparency, decision making, and

implementation. A concluding section reflects on the materials examined, and points to the need to synthesise the discussions contained in this chapter into a more coherent analytical framework capable of classifying and evaluating contemporary governance.

Background: Globalisation and its Relationship to Governance

Globalisation has been described as a complex set of forces intimately linked to the transformations of the modern era and characterised by “the pervasive interaction between fragmenting and integrating dynamics unfolding at every level of community.”¹ The dynamics of globalisation are subject to wide-ranging disputes. Three schools of thought, largely within the discipline of international relations, have been identified, which view the phenomenon with varying degrees of enthusiasm: hyperglobalisers (advocates), sceptics (critics) and transformationalists (generally positive).² Various political ideologies are present in the three schools and while interpretations depend on perspective, all schools and perspectives examine it with respect to its historical trajectory, conceptualisation, causal dynamics, socio-economic consequences, implications for state power, and, most significantly for this study, governance.³

Hyperglobalisers define the phenomenon as “the widening, deepening and speeding up of worldwide interconnectedness in all aspects of contemporary social life.”⁴ They argue that sovereignty, state power and territoriality stand today in a more complex relationship than in the epoch during which the modern nation state was being forged. Globalisation is associated not only with a new sovereignty regime but also with the emergence of powerful new non-territorial forms of economic and political organisation in the global domain, such as

multinational corporations, transnational social movements, international regulatory agencies, and so forth. In this sense, the world order can no longer be conceived as purely state-centric or even primarily state governed, as authority has become increasingly diffused among public and private agencies at the local, national, regional and global levels.⁵ In contrast, sceptics argue that nation-states have simply adjusted themselves and their institutions to fit changed economic circumstances and meet the new requirements of capital, and in order to implement these changes have created global mechanisms in response. At the same time they have voluntarily surrendered power by reducing expenditure on the public's behalf and handing authority over monetary policy to central banks; although they continue to exercise influence, it is in a different way.⁶ Unlike the hyperglobalisers, transformationalists see globalisation as a process in transition rather than fully realised, and contrary to the sceptics have an essentially optimistic view of global economic forces. The nation-states have learnt that economic efficiency in the market is dependent on the values of society and the community in which it functions. Nevertheless, globalisation of financial markets and production chains has threatened to undermine the nation-based social contract, and has necessitated the development of globally embedded shared social values and institutions.⁷ Whichever the view, the conclusion reached is that contemporary social processes transcend boundaries so completely that it has been necessary, from a governance perspective, to rethink current arrangements.⁸ Furthermore, the environment features prominently as a locus for the contemporary interplay between globalisation and governance.⁹

Global Governance Perspectives¹⁰

According to Kjaer, governance theory is similarly affected by the analytical approaches through which it is described and defined and is interpreted by a range of disciplines including international relations (IR - also referred to elsewhere as international politics - IP), and public policy (or public administration) as well as comparative politics.¹¹ The first two are more global in their orientation, and now recognise the impact of the forces of globalisation on the 'realist' notion of the pre-eminence of the nation-state in international relations, as well as emphasising the growth of non-state organisations. The latter two have a more state-centric perspective, in so far as they are concerned with social-political interaction within the nation-state, or political groupings of nation-states. In public administration, governance has become a synonym in recent years for reform of the public sector, and experiments with alternative arrangements have resulted in the fragmentation of previously centralised, 'top-down' administrative systems. Comparative politics associates governance with an evaluation of different political systems and state-society relations, including processes of democratisation.¹²

Despite analytical disagreements in the diverse disciplinary approaches there is nevertheless a common interest in the institutional manifestations of governance, particularly in terms of rulemaking and behaviour.¹³ Whatever their orientation, scholars also share an interest in determining from whence the legitimacy of a given governance system is derived. Two theories currently dominate. Legitimacy can be 'input oriented': that is, derived from the consent of those being asked to agree to the rules, and concerning such procedural issues as the democratic arrangements underpinning a given system. Legitimacy can also be 'output oriented': derived from the efficiency of rules, or criteria for 'good'

governance, and demonstrated by substantive outcomes.¹⁴ Legitimacy can therefore be determined both according to the principles of democracy on the one hand and efficiency and effectiveness on the other.

Understandings of democracy vary according to the institutional model adopted. The rational model assumes that the behaviour and preferences of actors involved in a given system are fixed and externally derived, with individual needs being aggregated into collective agreements through trade-offs and negotiation. An alternative sociological model of democracy views actors' behaviour and preferences as being socially constructed and the product of integrating the expectations of those around them with the obligations of the office they hold.¹⁵

These two models of actor behaviour can essentially be associated with representative and participatory democracy respectively. The model adopted by an institution can impact in important ways on its operation. It is argued, for example, that too much democracy reduces efficiency, whilst excluding particular interests distorts desired social and economic outcomes; both outcomes affect perceptions of institutional legitimacy. The problem of actor exclusion has been addressed within representative democracy via the practice of majority decision making. Governance scholars continue to see shortcomings, however, and call for additional measures to existing majority systems of representative democracy. Kjaer herself recommends more participation and a greater emphasis on processes of deliberation.¹⁶ Both the rationalist actor and constructivist schools establish a relationship between the effectiveness of a given institution and the range of commonly identified governance arrangements that underpin them; the emphasis on which is the most significant depends largely on the critical theory adopted.¹⁷

Given the globalising forces at play, and since international events can impact on state affairs and vice-versa, there has been an increase in the crossover between disciplines.¹⁸ There is a blurring of previously distinct scholarly boundaries, since ‘multi-level governance’ is being increasingly used as a term to replace the earlier ‘regime’ concept of rulemaking, particularly influential in IR theory.¹⁹ Governance should consequently now be understood in terms of its expression on both the national and international levels.²⁰ Both broad disciplines are relevant to the study of contemporary governance, but on account of their different perspectives may be designated as being either ‘global’ or ‘state-centric’ in their orientation.

Theories of Governance in the International Politics Literature

It should be noted that IR in particular has taken some time to catch up with and analyse the impacts of globalisation on governance theory. The previously orthodox viewpoint, that global political cooperation occurs almost exclusively within the sphere of intergovernmental regimes comprised of intergovernmental agreements, which are pursued in the context of state-based authority, is now seen as being largely out of touch.²¹ For the emergent IR/IP ‘globalists’, there is an emphasis on the *structures* of governance.²² Traditionally, global governance was a matter for individual countries via balance of power politics, but modern global governance is no longer dominated by the nation-state, and extremely disparate interests that are not dependent on organisation along territorial lines have begun to outflank the state.²³ Multilateral institutions in particular have become central, now differentiated between *government* (“control exercised by the nation-state, through formal (usually elected) parties”) and *governance* (“control exercised by a variety of public and private institutions that have been established at different

spatial scales”).²⁴ The globalisation of politics has led to a commensurate growth of global governance, not solely represented within formal institutions and organisations for intergovernmental cooperation such as the UN and the World Trade Organisation (WTO). Multinational corporations, transnational social movements and a multitude of non-governmental organisations all pursue global objectives that bear upon systems of trans-national rules and authority, around which the relevant actors converge and through which they pursue international relations.²⁵ These systems:

[C]onstitute forms of global governance distinct from traditional notions of government conceived in terms of specific sites of sovereign political power. In the contemporary international system there is, of course, no single political authority above the state. But despite this, international regulatory regimes have developed rapidly, reflecting the patterns of global and regional enmeshment.²⁶

Although there is no formal global government, it is nevertheless true to say that there is still global governance, whereby actors enmeshed in regimes (or more appropriately, less formalised arrangements of norms, rules and procedures) engage in behaviour that is nevertheless regulated and predictable.²⁷ As it is currently expressed in such intergovernmental institutions as the UN, however, global governance is simply not strong enough as a substitute for the mechanisms of government inherent in the nation-state.²⁸ This failure of intergovernmental organisations to institutionalise strong supranational agreements is noted as being particularly evident in relation to the environment.²⁹ Emergent contemporary social initiatives and movements around the environment are a response to this lack, and are triggering more inclusive forms of global governance to compensate, which are based on the “dynamic interplay between civil society, business and public sector over the issue of corporate social responsibility.”³⁰

Several commentators note the increasing role of non-state actors in this emerging global polity, most notably international non-governmental organisations (INGOs). Held et al. identify 176 international INGOs in 1909 compared with 5,472 in 1996 to emphasise this point.³¹ Keck and Sikkink comment that environmental NGOs have grown the most dramatically of all the social change organisations, and in combination with human rights and womens' rights movements represent over half the NGOs involved in social change.³² Courville argues the shift in economic power away from the national, to international levels, and a commensurate erosion of the welfare society is associated with the rise of globalisation, trade liberalisation and privatisation. These developments have shifted power towards non-state actors, and explain the rise of the NGO sector, but she includes both corporations and civil society protagonists are included in her list of players.³³

As the power of non-state associations and organisations grows, state powers are being replaced, displaced or shared. Collective self-governance is emerging as part of the social-political landscape, a consequence of globalisation and the differentiation, complexity, pluralisation and reflexivity to which it is giving rise.³⁴ Since NGOs in particular now wield significant power in their own right, concerns regarding their level of accountability and conflicts of interest have arisen.³⁵ One suggestion has been to equate "the function of global civil society in global environmental governance...[to] that of civil society within states."³⁶

However, the problem lies not just with NGOs, but rather from an inherent "democracy deficit caused by the dispersed nature of decision making across international borders."³⁷ Consequently, there is an active discussion in both theory and practice as to how globalisation itself can be democratised.³⁸ Since

participatory democracy is seen as partly shifting away from the nation-state, problem solving is now occurring in global venues of collective action that are becoming increasingly pluralised, community-based, and less under the direct organisation of the state.³⁹ A note of caution has been sounded that the devolution of power to decentralised structures in which representative organisations play an important role can reduce democracy; but it can also open spaces for participatory opportunities.⁴⁰ Other commentators consider that problems for democracy are more about ensuring effective mechanisms of decision making.⁴¹ The argument is that democratising global institutions is no more of a problem than it is with large nation-states; it is effectively a question of design. Global democratic institutions need to be built around participation and deliberation, which would occur at both the global and local levels and in which non-state and state entities would engage in discursive self-regulation and be responsible for the implementation of any standards or regulations developed at the appropriate level. This approach can be contrasted with much of the current global interaction beyond the unitary state, such as the UN Security Council, or the European Union (EU), neither of which are seen as particularly democratic.⁴²

Criticism of existing forms of democracy at the global level has led to various suggestions as to how global governance can be democratised.⁴³ Three potential alternatives have been suggested: liberal internationalism, which simply seeks to place a weak form of domestic liberal democracy onto the democratic world order; radical republicanism, which seeks the creation of alternative approaches to managing social, economic and political interaction based on self-government; and cosmopolitan democracy, which conceives the idea of citizenship as being multiple, overlapping and 'deep', functioning within and beyond the nation-state.

These are to be understood as ongoing projects, not yet fully realised.⁴⁴ A greater emphasis is placed on deliberative modes of democracy, along the lines of Habermas' discourse theory.⁴⁵ This approach is seen as important on a global level, since "deliberation, organized at diverse levels, represents the best hope of ... sustainable global governance."⁴⁶ Deliberative democracy is particularly relevant given the lack of formal supranational authority and the preference for partnerships and multi-stakeholder processes. It also conveniently avoids the "conceptual trap of state-centric notions of democracy."⁴⁷

Dryzek provides an interesting reframing, which sits almost between the global and state-centric approaches. He supports the concepts contained in deliberative democracy, but situates them within a global environmental discourse, which he refers to as ecological democracy.⁴⁸ He portrays globally organised liberal capitalism as being mostly insensitive to environmental concerns, and a dominant fact of the current era. If they do not accept this reality, commentators are reduced to wishful thinking about how things might be. For him, only two discourses, those of the Prometheans and the ecological modernizers have a coherent analysis of this situation. He rejects the Promethean, since its basis in the infinite availability of resources for exploitation provides the perfect setting for what he sees as the current (negative) trajectory of liberal capitalism. Ecological modernisers on the other hand accept that liberal capitalism needs to be restructured in order to factor in its environmentally destructive capacity, whilst accepting the economic constraints it places on political action. Such an acceptance recognises the need to both facilitate and engage in social learning within an ecological context, and he sees such a perspective as providing opportunities for democratic capacity building.⁴⁹ His solution to powerful state

bureaucrats and corporate dominance of global institutions is to open up such processes to a degree of democratic experimentalism and discursive design that go beyond the simply pragmatic approach and point towards “a more radical participatory democracy.”⁵⁰

Theories of Governance in the Comparative and Public Policy Literature

Without overstating the point, scholars that focus more on governance at the national and supranational levels tend to show a greater interest in its *processes* than more globally oriented theorists. Despite their analytical orientation around the activities of governments within the nation-state they are nevertheless also interested in governance at the international level. This is partly on account of the growth of collectivities such as the European Union (EU), since comparative political studies have been inevitably drawn into discussions regarding multi-level governance.⁵¹

Modern governance is portrayed as essentially social-political in nature, defined as “more or less continuous processes of interaction between social actors, groups and forces and public or semi-public organizations, institutions or authorities.”⁵² Interaction is key, and is identified as a series of ‘co’-arrangements, characterised by coordination and cooperation between actors, and where interest representation is less fixed than in previous political ideologies, being built upon the interdependence between groups of actors that enjoy more autonomy than in state-based arrangements.⁵³ In this model the transmission of information and knowledge and its valuation by those involved plays a central role; dialogue should be not be interpreted naively as interest- and power free however, but as a method of dealing with complex issues (such as ambiguous political and social problems).⁵⁴

The environment is one policy arena where divergent groups (both state and non-state) are drawn together in a kind of vigorous pluralism.⁵⁵ The need to properly address environmental problems has resulted in the replacement of old state/society relations by new forms of public/private interaction.⁵⁶ This shift is a consequence of the perception of the lack of effectiveness of purely public regulation in tackling the environmental crisis. Complexity has reduced the ability of governments to act unilaterally, requiring the coordination of inter-dependent players in a way that ensures cooperation instead of the exercise of the power of obstruction, where adversarial and non-cooperative behaviour obstructs economic and environmental outcomes.⁵⁷ 'New' governance, by contrast to previous approaches, is envisaged as a positive process of learning, where all are involved in the management of structural change and the negotiation and exchange of information between parties results in them learning to trust -- as opposed to mistrust -- each other.⁵⁸ The interactions between participants is occurring within democratically self-regulating systems, in which environmental policy is the product of processes of internal reflection. These systems are replacing existing, more legalistic, mechanisms.⁵⁹

Scholars have focussed on the concept of learning as a governing mechanism for organising social and political interaction within environmental decision making. Policy learning is used to describe governance mechanisms based upon the process of learning from experiences, thus altering behaviour, and which can be used more broadly to build feedback mechanisms into policy-making, strengthen existing networks, create conditions that would lead to more trust and more productive dialogue, and to build flexibility into the policy system generally.⁶⁰ Policy learning has been categorised into four sub-types: technical

learning (looking for new policy instruments); conceptual learning (redefining policy goals); cognitive learning (based on scientific knowledge) and social learning (based on interaction and communication).⁶¹

Looking specifically at the sub-category of social learning, and moving beyond the European perspective, Fiorino places it into a historical context by examining the shift in policy-making behaviour in the US during the 1990s. In that decade greater emphasis was placed on stakeholder interaction and communication, and on environmental justice for environmentally disadvantaged groups in society. Interests outside government called for deliberation and consultation in decision making, a call that was echoed in government and industry, who also began to recognise the need for dialogue and partnership. Fiorino links the growth of this trend at the national level to the concept of sustainable development contained in the 1987 report of the Brundtland Commission, *Our Common Future*, and the United Nations Conference on Environment and Development (UNCED) in 1992. In particular, with respect to UNCED's key product, *Agenda 21*, he identifies participation, inclusion, dialogue, partnership, and equity as recurring themes.⁶² Others argue further, and perhaps somewhat idealistically, that under these conditions participation has changed, with government acting as a facilitator rather than regulator or controller, whilst industry participates for the collective good, not its own economic or political interests. There is a different approach to implementation, away from hierarchy and control to cooperation between actors, who share responsibility for outcomes, rather than adopting adversarial roles, and agreements reflect increasing degrees of flexibility. However social learning requires well-organised bureaucracies, as well as interest groups experienced in participation.⁶³

Social learning is also identified as having implications for new ways of practicing democracy.⁶⁴ There is a much broader interest in democracy than merely its relationship to social learning, however. Inoguchi and Bacon argue that when used normatively, governance is often taken as a synonym for democracy.⁶⁵ Since the end of the Cold War, the term has usually been employed in this sense to refer to processes of governance by which democracy is promoted, established and consolidated. Iterating the widely accepted view that governance also occurs on multiple levels, they stress the need for clear rules of transparency and accountability in the light of the decline in state power.⁶⁶ The concept of ‘good’ governance has therefore become critical, as has the need to ensure that people continue to have the power and participatory rights associated with the election, decision making and supervisory aspects of government. These are entitlements under democratic conditions, and it is here that good governance and democracy coincide. Whilst there can be good government under an authoritarian regime, good governance cannot exist without a functioning democratic mechanism.⁶⁷

Comparative politics/public policy theorists, like their IR/IP counterparts, also question the ability of the current modes of governance to provide for genuine democracy.⁶⁸ Market-based mechanisms confine democratic decision making to policies for creating low-cost social conditions conducive to economic development. International institutions and regimes aimed at solving problems beyond the nation-state, such as the environment, are built upon highly technocratic and exclusive supranational agencies and agreements, with a very reduced role for the public. Corporate governance arrangements, despite some modest concessions to demonstrate a degree of accountability and transparency, still exclude major stakeholding interests directly affected by company policies,

such as employees and local communities. New public management has arisen out of the privatisation of previously publicly owned assets, the management of which is no longer under the direct control of elected officials. New practices of coordination through networks, partnerships and deliberative forums have promoted greater legitimacy via grassroots, democratic inclusion, but can be short-lived and impenetrable, hindering wider social learning and lesson drawing.⁶⁹ Furthermore, these emerging governance arrangements challenge the understanding of democratic representation inherent in the architecture of classic liberalism. The state is now but one of many large, hierarchical institutions, which are neither answerable nor accountable to citizens, and democratic representation and governance is no longer to be found in one single location, threatening the notion of public control.⁷⁰

At the same time -- and contradicting these warnings -- 'new' governance processes in public administration and public management deliberative democracy have been inextricably linked with a growth in deliberative democracy at the state level.⁷¹ Democracy within new governance is both deliberative and collaborative, and is to be contrasted with aggregative democracy in which voting is the primary mechanism for selecting preferences and determining outcomes.⁷² However, some commentators remain sceptical regarding the ability of deliberative democracy to be used beyond small decision making units. On a larger scale, they question whether the assumptions of deliberation, particularly consensus formation, can occur in the presence of representative institutions and adversarial politics.⁷³ However, recent developments in deliberative democratic practice in a large-scale context may challenge these assumptions. Deliberative democracy has appeared on the European stage as part of the 'new' governance

response to the perceived problems in the effectiveness of decision making and democratic legitimacy within the EU system.⁷⁴ Eberlein and Kerwer see the range of decision making approaches adopted in the EU as constituting what they refer to as democratic experimentalism. This theory still builds on the general principles that deliberation is central effective democratic decision making, and that institutional frameworks affect deliberation. They consider policy networks to be of particular institutional significance.⁷⁵

Dorf and Sabel present an idealised institutional framework in which the basic democratic unit is the local forum, through which collectively binding decisions are reached via deliberation between diverse, affected parties.⁷⁶ Such forums exist over time and have real decision making powers exercised through direct democratic processes, which, crucially, are coordinated through a central governance council.⁷⁷ This council encourages mutual learning by converting the collective experiences of participants in the many simultaneous experiments into performance standards based on the best practices found. Such a council might exist at a town governance level, or as a regulatory agency at the national level.⁷⁸ Standards developed under such processes differ from conventional regulation in that they are focussed on performance and continual improvement of existing practices, rather than specifying, for example, certain levels of pollution or protection. This provides participating entities with a competitive advantage over others as rules change in more predictable manner (“best practice rolling rules”).⁷⁹ According to this theoretical view, democratic experimentalism is not in conflict with representative democracy, since it needs the support of institutions of representative democracy (such as parliament and bureaucracies) to maintain viability. In addition, judicial review and administrative procedures can also play

further and important roles by overcoming decision making deadlocks, which might otherwise block effective experimentation.⁸⁰

In contrast, those who are less optimistic call for democratic reform in order to address the multiple locations of contemporary governance. With no single locus, focus or demos, the nation state now shares power on the subnational and supranational levels with increasing numbers of networks and partnerships of quasi-public and private organisations, such as NGOs. There is no longer one single political mechanism for all scales of governance, necessitating a conception of democracy that is effective within institutions of various kinds and at various levels. The solution is to change top-down bureaucracies to “constitutionally ordered democratically self-governing associations.”⁸¹ Such self-government would not replace, but rather supplement and extend, representative government at the global level.⁸²

Institutional Expressions of Governance

Given the diffusion of power away from the old paradigm of top-down, command and control state-led approaches, there has been a proliferation of new forms of governance and associated policy instruments. Starting at the departure point in the IR/IP analysis of the shift in global environmental politics away from intergovernmental, state-based relations, it is now possible to discern a historical trajectory towards alternative forms of governance. This is a development most analysts no longer deny.⁸³ These have been characterised by their “network-like arrangements of public and private actors” and include such arrangements as business-driven self-regulation, and public/private or civic/private partnerships.⁸⁴

This development has been interpreted as being closely related to economic globalisation and the concurrent restructuring of the functions of the state.

Although corporations, for example, continue to lobby governments through traditional processes based around multilateral environmental agreements (MEAs), they are also dealing with each other and other non-state actors as well as the state. Such efforts amongst private actors, civil society and the state have given rise to private and civic governance arrangements that resemble the public governing functions of states and intergovernmental institutions. Relations are of a permanent and institutionalised nature and should be distinguished from simple cooperation, which is ad hoc and short-lived.⁸⁵

Such private and civic initiatives are categorised in a number of ways. Haufler refers to them as instances of self-regulation, representing a new form of global governance, defined as “mechanisms to reach collective decisions about transnational problems with or without government participation.”⁸⁶ Interestingly, the move to private sector governance has been given a boost as a result of the international institutions that have either arisen within the UN, such as the United Nations Environmental Program (UNEP), or via UN-sponsored initiatives, such as the voluntary Code of Conduct on Transnational Corporations.⁸⁷ Ironically, it is globalisation, and its hallmark reduction in state power that has contributed to this growth, as well as the weakness of global governance at intergovernmental levels.⁸⁸ UNEP notwithstanding, such failings are particularly evident within the UN system itself, which has been criticised as being neither effective in the assessment, review and monitoring of the measures it prescribes, nor in ensuring compliance.⁸⁹

The move to self-regulation is interpreted as not simply due to industry opportunism seeking to undermine regulatory systems to the lowest common denominator. Many companies are in fact developing international standards that

exceed the requirements of national legislation.⁹⁰ Instead, self-regulation is seen as further evidence of the changing nature of global governance, particularly, as noted before, in the increasing use of collective mechanisms addressing issues of policy.⁹¹ Three discrete self-regulatory models have been described, centred upon civil-society-based monitoring and advocacy initiatives, industry-driven standard setting, and traditional government-led regulation (albeit functioning at local, national and regional levels). All three models are in addition to the various international institutions created to deal with common problems among countries.⁹² Although self-regulation is seen as having the potential to encourage significant improvements, Haufler still sees the necessity of acting in cooperation with traditional political approaches.⁹³

Another perspective attributes more importance to direct civil society pressure, forcing companies and business associations to take on responsibilities within their business domains and society at large, resulting in a further interpretation of private and civic governance as a voluntary initiative.⁹⁴ Here, the three types of regulation discussed immediately above are seen rather as three phases of regulatory development. An initial wave consisted of largely unilateral company codes, designed to demonstrate good conduct and not generally for public disclosure but intended to address the concerns of consumers in industrialised countries (such as child labour) while ignoring more entrenched problems, such as freedom of association. This was followed by a further development comprising a combination of social and financial reporting to demonstrate a company's commitment to social responsibility to its shareholders.⁹⁵ The third, most ambitious, and, as demonstrated by its commitment to transparency, most socially responsible, was the creation of sector-wide arrangements, involving several

businesses and/or associations, and including civil society participants.⁹⁶ All three waves in this analysis are collectively referred to as certification institutions.⁹⁷ While the resultant institutions that have arisen do not and cannot replace nation-states, however; but they have introduced new elements and dynamics into the processes of global governance.⁹⁸ Cashore, Meidinger and others have commented at length on forest certification, which is discussed along with the forestry literature in the following chapter.⁹⁹

There is recognition elsewhere of the important role of non-state actors in their own right, most particularly in the evolution of global environmental governance. New sub-political arrangements are emerging that are institutionalising non-state interests in the economic domain, especially when governments fail to act, or when intergovernmental agreements and institutions prove inadequate. Market-based mechanisms are making an increasingly significant contribution to global reform. But other economic interests and political agendas can also threaten such emergent transformations. Constant effort is therefore required by interested parties to maintain the relevance and momentum of these new forms of environmental governance, and to extend their effectiveness.¹⁰⁰

Other commentators prefer to describe non-state global governance as one comprised of transnational collectivities interacting either in competition or cooperation with state interests in a globalised space.¹⁰¹ This transition of power and authority away from states should not be seen as occurring only in transnational processes, however, as there has been a growth of new governance institutions at all levels.¹⁰²

Comparative politics/public policy scholars identify an inter-play between governance and government, reflecting the nature of the changing roles of state

and societal actors, in a period termed as governance transition, and encompassing alternative policy instruments.¹⁰³ There are a range of types and sub-types of policy instruments, including benchmarking, co-regulation, negotiated agreements and voluntary codes of conduct. In the literature covering environmental policy instruments particularly, a trend away from the traditional regulatory approach dating back to the late 1960s towards new environmental policy instruments (NEPIs) has been noted. In the environmental context four sub-types have been identified: market-based instruments, eco-labels, environmental management systems and voluntary agreements. Older policy instruments continue to compete with NEPIs, which are themselves competing with each other. Hybrid forms of regulation, with strong features of governance such as self-monitoring and societal organisation are also appearing. Some analysts consequently prefer to interpret governance and government not as fixed entities, but rather as representing a continuum of different governing types on two heuristic ‘poles’. On balance, though, jurisdictions have nevertheless shifted from a position of government to governance with regard to their use of newer instruments.¹⁰⁴

Legitimacy and the Quality of Global Governance

With the shift in governance away from government-led top down models to network-like arrangements of multiple actors, difficult questions have arisen with regard to legitimacy. Previously, nation-states simply intervened to change the behaviour of actors, gaining their authority from the traditional checks and balances of democracy (such as the rule of law).¹⁰⁵ Globalisation has introduced new players onto the scene, and has raised two questions relating to legitimacy at the global level. Firstly, how can one ensure the institutions in which these players operate are democratically accountable? Secondly, how can one assume the

institutions and the policies they develop are effective? Traditionally, IR theorists have been more concerned with the output side of legitimacy. These concerns generally related to the effectiveness of global governance in terms of rule making and procedures, but with the expansion of governance beyond nation-states, and new actors influencing the norms of global politics, there is a growing concern regarding the democratic inputs of global governance.¹⁰⁶ Legitimacy problems arising from a lack of accountability according to this emerging theory can therefore be addressed by strengthening public access to standards setting and broadening inclusion of stakeholders.¹⁰⁷ The discussions regarding input and output legitimacy are manifested within institutions at the global level by a concern as to how to demonstrate 'good' governance. This is typified within such organisations as the World Bank, which has adopted a criteria-based approach, insisting on the need for particular elements of 'good' governance as a basis for lending.¹⁰⁸ This approach has led scholars to look further into input legitimacy, connecting it more specifically to interest representation and accountability and transparency, rather than simply equating it to democracy.¹⁰⁹ Output legitimacy, whilst still being still linked to effectiveness, is also now being analysed in terms of problem solving capacity.¹¹⁰

The comparative politics and public administration literature tends to look at legitimacy in terms of the quality -- often synonymous with both the efficiency and effectiveness -- of a given system.¹¹¹ Whether governance quality is derived from the inputs of a given system (relating to its structures and processes) or outputs (its products) -- or both -- varies between scholars. An input-oriented perspective implies that the procedures and processes by which a system's policies are developed result in legitimacy.¹¹² Democracy, for example, has been

identified as an input-oriented, procedural aspect of legitimacy, derived from compliance with rules agreed to by the majority for taking collectively binding decisions.¹¹³ However, it is argued that increasing input legitimacy through expanding interest representation and deliberation, can increase costs, and therefore has an impact on efficiency (output-legitimacy).¹¹⁴

An alternative formulation views governance quality as being derived from the substance, or outputs, of a given system, including the formulation of criteria, or setting standards. These products relate largely to how governance is formulated and applied, and it is the products themselves that deliver effectiveness and legitimacy.¹¹⁵ Good governance in this formulation is portrayed as an output-related aspect of legitimacy, derived from substantive criteria relating to effective policies that serve the common good.¹¹⁶ In contrast to input legitimacy, the implication is that “a political system and specific policies are legitimated by their success.”¹¹⁷ Here, the decisions made gain legitimacy in the eyes of the public if they deliver the goods.¹¹⁸

Oran Young challenges the value of output legitimacy, and argues that although “an environmental regime is successful when it solves the problem that led to its creation” such an approach is unduly simplistic.¹¹⁹ He questions the value of determining the success of environmental regimes by looking at outputs -- centred on the implementation of the requirements of the agreements -- as they do not guarantee that problems for which a regime has been created will disappear. He notes a shift in institutional thinking towards changing behaviour instead, which although it may still not solve a problem, nevertheless allows for the consideration of side effects as well as intentional results. This is essentially an analytical distinction between outputs (agreements) and outcomes (behaviour

change). He sees a link between the process of decision making and the behaviour of those subject to the agreements made. He believes such an approach clarifies the issue of effectiveness: if behaviour is the dependent variable it is possible to ascertain how regimes change the action of key players. He stresses the value of identifying the causal mechanisms, particularly the nature of participation, by which regimes affect the behaviour of both state and non-state actors.¹²⁰ Others connect the relationship between both outputs and inputs to overall legitimacy and effectiveness, which they see in terms of the quality of decision making processes. The decisions made gain legitimacy in the eyes of the public either if they deliver the goods (output legitimacy), or if the decisions made occur in a setting that is accountable through the rule of law or other means (input legitimacy).¹²¹

Other scholars prefer to overlook the input/output analysis of governance all together, and correlate effectiveness to institutional design. Nevertheless, they still note the importance of participation, decision making and verification, and compliance mechanisms.¹²² In this analysis, effectiveness is also measured by the impact on behaviour, and the solving of the problem itself.¹²³ There is a direct relationship between participation and effectiveness. Although a regime with less broad-based participation and mostly like-minded interests may be successful over the short term, it is unlikely to be effective over the longer term, since it does not contain the main contributors to a given problem.¹²⁴ Interestingly, it is also noted that: “regimes with a generally inclusive access and participation profile tend to be more effective than regimes with a more exclusive profile.”¹²⁵ On a global level, this leads to the conclusion that, legitimacy challenges notwithstanding, the network-like nature of contemporary governance involves

multiple actors, “whose interactive effects in practice can yield more effective global coordination and performance” than traditional models.¹²⁶

Governance Arrangements

The term ‘governance arrangement’ is used to refer to a range of specific mechanisms influencing “the interaction between various actors pursuing common goals.”¹²⁷ These institutional arrangements, identified across the fields of governance theory, have a bearing on governance quality. They are explored below, from both global and state-centric perspectives.

Interest Representation

Interest representation has been identified as a fundamental problem in contemporary global governance.¹²⁸ The inclusion, or inclusiveness, of stakeholders, is generally associated with interest representation, and is seen as a crucial dimension underlying institutional variation at a global level.¹²⁹ Interestingly, the inclusiveness of intra-agency cooperation within the nation-state has been contrasted to the practices of intergovernmentalism in particular. Although this contrast should not be overstated, international agencies exist and function in a series of silos. In the WTO for example, only trade ministers participate because of a belief that other participants would simply confuse the situation. That environmental or labour ministers have no place is considered unacceptable, as those being affected by such institutions are not included. A second objection is that the democratic principle of interest representation, expressed in the belief of one person, one vote, does not apply in a number of organisations, including the World Bank and the International Monetary Fund, where votes are allocated on the basis of wealth. This distorts representation and thus distorts outcomes and is in need of reform.¹³⁰

As an attribute of global governance inclusiveness has been broken down into two constituent parts, access and weight.¹³¹ Access denotes the number of actors bounded, or affected, by a given policy, and the extent to which they actively participate in developing its content. Weight refers to the extent to which influence is equally distributed among the active participants. Inclusiveness therefore sits along a power continuum, depending on the degree of access and weight a potential participant might have.¹³² Measuring inclusiveness depends several factors, but significance has been placed on the identification of actors affected by a policy. Governance has been described as being inclusive as when:

[A]ddressees of a regulation are *involved* in the decision making process behind it, and if the *affected* societal *parties* of a regulation, both the associative targets and all those affected by a rule, are *heard* both formally and informally.¹³³

Looking at global governance, democratic theorist Iris Young sees a relationship between inclusion and equality, and exclusion and inequality. For her, legitimacy is normatively expressed by equally including all those affected by any given decision within the decision making process. However, she does not envisage simply imposing a specific set of requirements for inclusion on previously constituted institutions; political inclusion requires a plurality of methods, since inclusive discussion recognises social differences, transforming the style and terms of debate.¹³⁴ For her, part of the process of transformation is to see that inclusion bounded by the nation-state is an inherently exclusive political form, and the contemporary world “normatively requires a more open system of global regulation and local and regional interaction.”¹³⁵ In addressing the problem of inclusion in mass societies, she argues that institutions of representation have been wrongly assumed as being incompatible with participatory democracy. She believes that systems of representation are most inclusive when they encourage a

wide range of previously marginalised groups and perspectives. Furthermore, varied institutional locations and institutional types can in fact increase representation.¹³⁶

Effective interest representation in global governance also requires significant resources generally only available to well-endowed organisations, with access to ample finances, like think tanks, business associations and faith-based groups. These have an inherent advantage, as they tend to reside in the more privileged parts of the world, such as the North, and speak English.¹³⁷ Lack of resources can be offset when associations collaborate, and in this regard at least, networks have been identified as having the potential to play a beneficial role. If the problems surrounding how networks are themselves resourced can be overcome, such structures have the potential to impact positively on global governance.¹³⁸

Governance theorists with a more state-centric perspective accept that participation within new institutional modes of governance is basically representative and group-oriented in nature.¹³⁹ This also leads to a recognition that the complexities of governance brought about by globalisation call for a reinvention of interest representation in post-modern public administration.¹⁴⁰ The collective nature of governance brought about by globalisation raises issues regarding the relationship between interest representation, inclusion and equality. In such non-spatial and non-territorial venues, equality can be eroded, since the same forces that are increasing opportunities for involvement make it much more difficult to simply use previous nation-state oriented standards.¹⁴¹ In response, it should be accepted that individuals cannot participate everywhere, and that global governance is essentially representative in nature. Participatory equality may not involve access to all points in the system -- but it should include the ability of one

organisation to force another to justify or limit the costs it imposes on others. There may even be circumstances allowing for “justified inequality”: a cautionary rule-of-thumb would be that “inequalities are suspect when the voices of those affected are absent.”¹⁴² There is consequently a need for some formulation of baseline equalities, which although they do not guarantee that a given individual will participate, enable them *to* participate when they choose to do so. In such venues participatory equality is achieved through the presence of multiple associations, whereby the individual can choose the one that best represents their interests and over which they can exercise some control through the possibility of exit.¹⁴³

In the EU literature, attention has been paid to the problems associated with greater participation and wider inclusion inherent in the governance concept, notably the prevalence of hidden places of influence and power.¹⁴⁴ This problem has been referred to elsewhere as ‘fugitive’ power and can result in a number of legitimacy problems associated with European governance.¹⁴⁵ The European Commission has gone so far as to develop a White Paper on European Governance, the goal of which is inclusiveness and accountability, both presented as principles of ‘good’ governance.¹⁴⁶

A further requirement for effective interest representation is that all participants receive equal capacities and opportunities to participate, using methods that work for all.¹⁴⁷ Scholars point to the need for economic-technical capacity (money and expertise) as a structural framework condition for developing environmental policy, which is capable of identifying and resolving ecological problems within decision making processes that include public and private actors.¹⁴⁸ Simmons and Birchall equate capacity building to the provision

of resources to strengthen participation, which they consider to be important aspects of community development, and include training, and increasing participants' skills and confidence.¹⁴⁹

Accountability and Transparency

Accountability has become a central aspect of the quality of governance debate, since the rise of new actors and new institutions has necessitated a reconfiguration of existing democratic mechanisms.¹⁵⁰ Traditional 'vertical' systems of national democratic accountability (elected representatives hold public officials accountable through centralised budgeting and parliamentary oversight) have been supplemented by 'horizontal' accountability. In this model, the external accountability of decision-makers is to the public at large, and is linked to what appears as a subsidiary attribute, transparency, expressed in terms of public access to information and decision making procedures.¹⁵¹ Transparency plays a role both in the participation of interests from the inception of a governance system or policy process (*ex ante*) and in the public scrutiny of decision making (*ex post*).¹⁵² It is effectively a precondition for effective accountability, since it is impossible to hold an institution to account if its regulatory operations are not open to public view.¹⁵³ In the absence of a global constitution and formal hierarchies, the strategic interactions that arise among entities within institutions of global governance are frequently not regarded as legitimate by those affected by the rules such institutions make.¹⁵⁴ Civil society actors have played an essential role in opening up global governance, and have forced various institutions to increase their visibility by publishing information, and have also pushed for the development and implementation of mechanisms for monitoring and controlling

agency activities, which are essential in view of the fact that conventional methods are seen as insufficient for the contemporary situation.¹⁵⁵

Accountability is also seen as being both an internal and external requirement of good governance. Rosenau points to two accountability problems for groups operating in globalised space. Externally, whilst some international (i.e. intergovernmental) organisations are accountable to the states they represent (if not the general public directly), NGOs are not, even by minimal standards of democratic governance. Internally, the decision making processes of many NGOs are not exposed to members, procedures for electing their leaders are absent, or they may not even have members.¹⁵⁶ This concern is echoed elsewhere. Whilst international (governmental) organisations are internally accountable to the states they represent, NGOs are not, nor are they always transparent.¹⁵⁷ Legitimacy problems consequently arise, for example, regarding the accountability of northern NGOs towards their southern counterparts, as well as the real extent to which NGOs as a sector are accountable to their own members.¹⁵⁸ Nevertheless, despite their shortcomings, NGOs should be acknowledged for their contribution to holding governments and intergovernmental institutions accountable to the public. The UN has gone so far as to claim they represent an approximation of direct popular participation, at least within intergovernmental machinery. An approximation is no substitute for the real thing, however, and NGOs should expand their activities towards genuine popular participation, rather than supplant it.¹⁵⁹ Nor should NGOs be singled out for special criticism. Some scholars point to a fundamental accountability deficit arising within self-governing networks, due to the differences between participating institutions. Such a deficit is experienced

at two levels: within individual parts of the network, and on account of the self-interested -- rather than public-spirited -- nature of their members.¹⁶⁰

As a result of these perceived limitations, there have been calls for properly adapted principles of accountability to satisfy normative democratic criteria, but world politics generally lack universally accepted values and institutions.¹⁶¹ However, it is recognised by advocates of greater global governance, that national models, including a reliance on accountability via electorates is not feasible. There is a need for a better meshing together of internal and external accountability measures, posing a number of unresolved normative questions.¹⁶² Others see the answer as straightforward, calling for increased openness of global institutions. The application of freedom of information laws and generally freer access to information would account for the remoteness of global processes from democratic accountability.¹⁶³ Alternatively, the standards-based approach of some institutions of global governance is presented as a solution to demonstrating accountability.¹⁶⁴

Scholars of the EU in particular have associated an institution's legitimacy with its accountability mechanisms. How an institution views these aspects of governance impacts on its quality; shortcomings in the EU system are partly attributable to the different considerations given within institutions to the role of such elements as accountability, a problem exacerbated by the variety of institutional types.¹⁶⁵ Other scholars are also concerned with the accountability of contemporary governance. They identify a clear discrepancy between the tenets of accountability within representative government versus the nature of participation within governance networks, which may be open and transparent, but need not be formally accountable.¹⁶⁶ Some see a tension between the new approaches of

steering and coordination inherent in modern governance and traditional approaches to delivering political accountability within democratic theory. Since accountability now also rests with non-accountable actors, and relationships between the public and private sectors have become complex, it is difficult for citizens to understand how accountability functions.¹⁶⁷

Rhodes presents the classic accountability dilemma arising from the ‘hollowed-out state’ identified in ‘new’ governance theory. Firstly, institutional complexity obscures who is accountable, and for what. Secondly, while the state equates transparency and responsiveness with accountability, the public does not actually have a clear government agency to hold to account. Further, if it is not clear who should be held accountable from the beginning, the problem is likely to be exacerbated after the event, and will reinforce lack of responsibility beforehand.¹⁶⁸ This makes democratic accountability within networks a serious challenge in an environment of governing without government.¹⁶⁹ This is particularly relevant as non-elected stakeholders are not directly accountable to the voting public, and the extent of traditional accountability safeguards such as freedom of information, declarations of interest, and ethics of office generally are not clear. Whilst a broader range of interests may participate in decision making, they can easily absolve themselves of responsibility and increased numbers of stakeholders may dilute transparency and blur the lines of accountability, making identification of responsibility difficult.¹⁷⁰ Responsibility can also be expressed institutionally by a lack of responsiveness to stakeholders’ concerns, and might explain increased calls for participative democracy as a consequence of the sense of estrangement that has arisen in the way people view political institutions.¹⁷¹

Some scholars see that defining what constitutes a robust accountability system is a major problem facing advocates of new governance, and have problems envisaging any serious contenders to the state as a source of democratic accountability.¹⁷² The differentiated polity implicit in global governance requires accountability to be made explicit and manifested in many forms and in many forums, proper discourse should be based on openness of, and access to, information to sustain proper discourse.¹⁷³ Governance structures therefore need to be sufficiently sophisticated to address accountability at the multiple levels of contemporary governance.¹⁷⁴ Formal structures and clearly defined rules are required for each level, otherwise transparency can be lost, and policy making predetermined.¹⁷⁵ This may require procedural frameworks such as judicial processes, or ombudsmen, to ensure transparency and thus deliver accountability.¹⁷⁶ In short, how the responsibility of participating actors should be addressed in non-state, non-elected structures continues to be the subject of some debate.¹⁷⁷

Decision Making

With their emphasis on institutions and structures, IR/IP governance theorists comment only superficially on procedural aspects of governance. Nevertheless, there is general recognition that as governance continues to develop at a global level, procedural arrangements are likely to be based more upon commonly-agreed rules and practices, even if the coercion and bargaining common in territorial systems continues.¹⁷⁸ The reason for this is seen as being twofold. Firstly, governance itself is increasingly multi-level, undermining traditional concepts of community and representation. Secondly, because single national interests must collaborate and seek accommodation if they are to deliver

externally-derived public goods to their local populations. These forces are generating a form of decision making, which is occurring in forums that in addition to their democratic expression are also more deliberative in procedural style.¹⁷⁹ Dryzek describes this approach as consisting of “discursive procedures” for dispute settlement through the solving of problems cooperatively.¹⁸⁰ He identifies policy and societal dialogue and mediation and regulatory negotiation as important aspects of procedure. He points to the Canadian Berger Inquiry as one of several practical examples of such an approach.¹⁸¹

More traditional IR scholars also pay some attention to the need to improve the procedures of global governance, leading to an observation that: “the processes we use to negotiate global agreements are as important as the ... capabilities ... that the negotiators bring to the negotiating table.”¹⁸² Current intergovernmental processes are seen as lacking the necessary vision -- and pragmatism -- to cope with greater degrees of non-state participation.¹⁸³ This has led to the conclusion that without existing institutional arrangements being changed in favour of more productive interaction, built around consensus, global environmental negotiations will continue to produce inadequate results.¹⁸⁴ Interaction should be less formal and more collaborative, whilst decision making when it occurs should be built around consensus rather than majority rule.¹⁸⁵

With their emphasis on process, comparative/public policy theorists look at the procedural aspects of governance in some detail. Whilst not universal in the literature, there is a fairly strong indication that addressing the need to deal with social-political dynamics (at least within modes of ‘new’ governance) requires “processes of discursive consensus formation”, again, like global governance theorists, along the lines of the theories of Habermas.¹⁸⁶ Environmentally

focussed scholars have argued that: “a tradition of consensus building strengthens both openness and the integration of politics and thereby reinforces the institutional conditions for relative success.”¹⁸⁷ Another commentator critical of current policymaking has noted an almost obsessive trend to consensus within new modes of regulatory governance.¹⁸⁸ The criticism levelled is that processes of consensus de-centre the state by making it a facilitator between dissenting groups, and simply another player, rather than sovereign decision-maker.¹⁸⁹ A second is that the focus on consensus moves away from making policy that is based upon the public interest, towards policy that is agreeable to those interests represented within the policy process.¹⁹⁰ A third criticism concerns the definitional inconsistencies of consensus, which can be defined as both constituting unanimity, or as a decision everybody can live with.¹⁹¹ Another problem is that imposition of consensus can constrain decision making. By making existing processes of policy-making participatory, all of the perceived benefits of consensus (such as reduced conflict) can be achieved, without needing such rigid adherence to consensus. Effectively, participation is more important than a specific mode of decision making.¹⁹²

EU regime scholars have examined whether decision making operating on a consensual or majority basis is more effective.¹⁹³ The more consensual, it is assumed, the more likely the prospect of implementation, and the more legitimate the decision. However, it carries the potential to be less effective, as it gives ‘laggards’ the upper hand. Unanimity and consensus-based processes, it is argued, result in weaker decisions than majority voting. However, both these assumptions are moderated by the need to balance different considerations in the various stages of a process. One European study finds that both consensus and majority decision

making were used in the environmental agreements investigated. Initially, whilst parties were still generally mistrustful of each other, consensus was the only viable option, but over time as trust between parties built, tougher decision making practices emerged in several of the cases examined.¹⁹⁴ Anecdotal case studies of environmental processes in the US indicate that agreement is often reached by consensus (understood as total agreement) during the working stages of negotiation, reverting to a majority vote at the end.¹⁹⁵

When conflict occurs within negotiations, or as a result of complaints over procedure, several sources identify the need for dispute-resolution mechanisms.¹⁹⁶ The breakdown of processes of engagement and negotiation and the inability to resolve conflicts have been identified as two key indicators of governance failure.¹⁹⁷ Van Vliet calls for “integrative negotiations” which are in turn dependent on the extent to which all parties can gain something, and adds that in cases of environmental dispute resolution, the consensus developed through mediation can bring separate interests closer together.¹⁹⁸ Conflict should therefore not be seen as a negative aspect of governance.¹⁹⁹ As venues for developing the skills of bargaining and compromise, conflicts can provide governance systems with a degree of energy and drive. So long as they do not encompass irreconcilable issues such as matters of religion or ideology for example, they can be managed, even if they are ongoing. Indeed, the ongoing nature of a particular conflict may even set the stage for the next round of engagement and negotiation. This leads to the observation that “the cumulative experience of muddling through numerous such conflicts is at the heart of an effective governance system.”²⁰⁰

Supporters of ‘new’ governance as a system of public administration, argue that public decision/policy-making, implementation and enforcement inevitably

involve conflict amongst interested parties. They point to the value of governance processes in the area of public administration in this regard that make provisions for mediation, facilitation, dispute resolution and arbitration should conflicts arise. Interestingly, it is in the arena of environmental governance where some of the most extensive use of these processes is made. A number of authors argue that procedures of consensus building and dispute resolution enhance the democracy, quality and fairness of decision making, and consequently -- through active and informed citizen engagement via public dialogue, reasoned debate and consensus -- increase legitimacy.²⁰¹

Implementation

With their greater emphasis on both output legitimacy and process, comparative/public policy theorists look in some detail at the issues surrounding implementation within governance institutions. Pierre and Peters argue that in order to determine whether a given policy objective has been implemented effectively, it is necessary to trace the final effects of a given policy and its related programmes on society.²⁰² EU scholars stress the relationship between implementation and compliance.²⁰³ Compliance results from a process of substantive assessment of international rules insofar as such rules are compatible with existing norms and beliefs; essentially a rule is complied with if it is considered to be appropriate by stakeholders. A second view places normative influences at a higher level, whereby Member States feel obliged to follow EU law, depending on the general culture of compliance within a specific state.²⁰⁴ Implementation deficits have been alternatively identified as arising from the tensions between on the ground learning (open and decentralised) and the need for administrative discipline (hierarchical and centralised).²⁰⁵ Zaelke et al define

compliance as “a state of conformity or identity between an actor’s behaviour and a specified rule.”²⁰⁶ They identify compliance as arising from two interrelated, but separate concepts, implementation and effectiveness.²⁰⁷ Implementation is “the process of putting...commitments into practice.”²⁰⁸ In this context, effectiveness is presented as a measure of the extent to which a policy has been successful in solving the problem it was created to address.²⁰⁹ Compliance is consequently portrayed “as a valuable proxy for effectiveness.”²¹⁰

Skjærseth et al. examine the effective implementation of international environmental agreements.²¹¹ For them “an institution is effective if it contributes significantly to solving the problems that motivated its establishment, notably by shaping the behaviour of relevant target groups” (identified as problem solving effectiveness and behavioural effectiveness).²¹² A relationship between behaviour change and social learning within institutions has been linked to transforming the perceptions of participating organisations about how to solve problems.²¹³ Particularly, processes of learning develop an individual’s capacity to deal flexibly with new situations.²¹⁴ The implications of cultivating such an institutional approach to problem solving is that governance systems, which incorporate degrees of flexibility, are more resilient in the face of external change and may even benefit from it. Non-resilient systems on the other hand are vulnerable to change.²¹⁵

Conclusion

This chapter has investigated the growth of new forms of social-political interaction between government and society -- or rather, state and non-state interests. In recent decades, a growing body of theory has arisen, tracing the evolution of the practice of government at all levels away from traditional top-

down, command-control models towards a broader understanding of state and non-state relations, articulated in the concept of governance, and manifested in a series of 'co'-arrangements centred upon collaborative approaches to problem solving.

This analytical perspective should be interpreted as a consequence of globalisation and the post-modern era, both of which have blurred traditional demarcations between state and society. Within the international system, the authority of the nation-state is being eroded, but not eradicated. Non-state interests are accorded a seat at the decision making table, and indeed at times, occupy the driving seat, but the delegation of authority to such players is inconsistent. On a national level, the state remains in charge, but has yielded a significant amount of its power, the result of accepting the neo-liberal philosophies of small government, privatisation, welfare- and market reform. Its control is of a less direct nature, and it is more content to steer, or coordinate, collective action. Its electoral mandate to govern is outsourced to secondary agents within the nation-state, or on an intra-national level, to the various apparatuses of such collectivities as the EU. At all these levels non-state interests play a significant role.

How to collaborate is one of the most significant issues in these evolving interactions. The increasing powers of the private sector, NGOs and other non-state actors at all levels has necessitated the development of alternatives to the traditional methods utilised by nation-states. Although 'governance without government' remains some way off, there is nevertheless a wide array of mechanisms for social-political decision making, ranging from the centralised and hierarchical, to the decentralised and self-regulatory. Governance is now

conceived of as many different institutional arrangements occurring at multiple levels: inside the nation-state; between states (such as the EU), and across states (via international regimes such as the UN); and in various private and civic initiatives. These arrangements are by their very nature 'new'; the academic debate is around what such a designation actually means. Various governance 'experiments' have been adopted in response to questions of legitimacy and perceived democratic deficits. A move away from the aggregation of interests within traditional democratic models, and a greater emphasis on deliberation has been identified in these contemporary institutional models. This has led to calls for researchers to think about institutional design more creatively in order to make governance more effective.²¹⁶ There is some agreement however, that contemporary governance shows a preference for interaction between decentralised networks made up of multiple actors functioning at multi-levels, and environmental governance articulates this trend especially strongly.²¹⁷

Although the various perspectives presented in this chapter have advanced governance theory considerably, the relationship between legitimacy and quality of governance remains unresolved. Scholars with a more international relations/comparative politics perspective view legitimacy in terms of both outputs (equated to efficiency or effectiveness) and inputs (equated to democracy, or alternatively in more recent studies, interest representation, and accountability and transparency). Those studying public administration and public policy have tended to focus largely on output legitimacy, whilst those in the field of comparative politics have followed two schools of thought, depending on whether their focus is on democracy (in which case they favour input legitimacy) or efficiency, in which case they concentrate on output legitimacy.²¹⁸ Consequently,

there is as yet no consensus over the precise institutional requirements for determining quality of governance. But there is agreement is that participation and deliberation are seen as primary normative functions of contemporary democratic institutions. There is also recognition that governance arrangements such as accountability and interest representation, as discussed above, are in some way related to legitimacy. This relationship, using forest governance as an exemplar by which these previously discrete theories can be synthesised, is the subject of the next chapter.

Endnotes

¹ James Rosenau, *Distant Proximities: Dynamics Beyond Globalization* (Princeton and Oxford: Princeton University Press, 2003), pp. 1 and 11.

² Sonnenfeld and Mol, “Globalization and the Transformation of Global Environmental Governance”, *American Behavioral Scientist*, 45 (9) (2002), pp. 1318-1339 at p. 1319.

³ David Held, Anthony G. McGrew, David Goldblatt and Jonathan Perraton, *Global Transformations: Politics, Economics and Culture* (London: Polity Press, 1999), p. 3.

⁴ Held et al., *Global Transformations*, p. 1.

⁵ Held et al., *Global Transformations*, p. 9.

⁶ Dianne Perrons, *Globalization and Social Change: People and Places in a Divided World* (London: Routledge, 2004), p. 253. Perrons blames the World Bank for spreading a particular form of globalisation - “the global circulation of goods services and capital but also of information, ideas and people” (*Globalization and Social Change*, p. 1). This is built around a neo-liberal ideology, which believes in the efficacy of the market, financial and trade liberalisation, flexible and deregulated labour markets and privatisation of national economies (*Globalization and Social Change* pp. 2-3).

⁷ John G. Ruggie, “Taking Embedded Liberalism Global: the Corporate Connection”, *Taming Globalisation: Frontiers of Governance* ed. David Held and Matthias Koenig-Archibugi (Cambridge: Polity Press, 2003), pp. 94-95.

⁸ Rosenau, *Distant Proximities*, pp. 393-394, Bas Arts, “Non-state Actors in Global Governance: New Arrangements Beyond the State”, in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi and Michael Zürn (Basingstoke and London: Palgrave Macmillan, 2006), pp. 177-200 at p. 178.

⁹ See for instance, Ronnie Lipschutz and Judith Mayer, *Global Civil Society and Global Environmental Governance: The Politics of Nature from Place to Planet* (New York: State University of New York Press, 1996), pp. 248-253.

¹⁰ Some of the materials in this section have been adapted from Tim Cadman, “Theory and Practice of Non-state Participation in Environmental and Forest-related Decision-making”, *International Environmental Law-making and Diplomacy Review 2005* ed. Marko Berglund (Joensuu: University of Joensuu Department of Law, 2006), pp. 155-178.

¹¹ Anne Mette Kjaer, *Governance* (Cambridge and Malden MA: Polity Press, 2004), pp. 7-9.

¹² Kjaer, *Governance*, pp. 3-7.

¹³ Kjaer, *Governance*, pp. 7-11.

¹⁴ Kjaer, *Governance*, p. 12, p. 12, citing Fritz W. Scharpf, *Games Real Actors Play. Actor-Centered Institutionalism in Policy Research* (Boulder CO: Westview Press, 1997), p. 153.

-
- ¹⁵ Kjaer, *Governance*, p. 12-13.
- ¹⁶ Kjaer, *Governance*, pp. 13-14 and p. 191.
- ¹⁷ Koenig-Archibugi, "Introduction: Institutional Diversity in Global Governance", pp. 7-13.
- ¹⁸ Kjaer, *Governance*, pp. 3-5.
- ¹⁹ Kees van Kersbergen and Frans van Waarden, "'Governance' as a Bridge Between Disciplines: Cross-disciplinary Inspiration Regarding Shifts in Governance and Problems of Governability, Accountability and Legitimacy", *European Journal of Political Research* 43 (2004) pp. 143-171, at p. 149.
- ²⁰ Kjaer, *Governance*, pp. 3-5.
- ²¹ James Rosenau, "Change, Complexity and Governance in a Globalising Space", *Debating Governance: Authority, Steering and Democracy* ed. Jon Pierre (Oxford and New York: Oxford University Press, 2000) pp. 167-200, at pp. 167-168.
- ²² Mathias Koenig-Archibugi, "Introduction: Institutional Diversity in Global Governance", in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi and Michael Zürn (Basingstoke: Palgrave Macmillan, 2006), pp. 1-30 at p. 13 and footnote 13.
- ²³ Ruggie, "Taking Embedded Liberalism Global", p. 104
- ²⁴ Perrons, *Globalization and Social Change*, p. 255.
- ²⁵ Held et al., *Global Transformations*, pp. 49-51.
- ²⁶ Held et al., *Global Transformations*, p. 51
- ²⁷ Ibid.
- ²⁸ Ruggie, "Taking Embedded Liberalism Global", pp. 94-95.
- ²⁹ Sonnenfeld and Mol, "Globalization and the Transformation of Environmental Governance", p. 1323.
- ³⁰ Ruggie, "Taking Embedded Liberalism Global", p. 95.
- ³¹ Held et al., *Global Transformations*, p. 53.
- ³² Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy networks in international politics* (Cornell University Press: New York, 1998), pp. 10-12.
- ³³ Sasha Courville, "Understanding NGO-Based Social and Environmental Regulatory Systems: Why We Need New Models of Accountability", paper presented to the workshop Accountability in a Complex World: Conceptualizing Constitutional and Regulatory Efficacy in the Face of Globalization and Privatized Governance, 14-15 March 2003, New York, 23 pp., at p. 1.
- ³⁴ Mark E. Warren "What Can Democratic Participation Mean Today?" *Political Theory* 30 (5) (2002) pp. 677-701 at pp. 682-687.
- ³⁵ Courville, "Understanding NGO-Based Social and Environmental Regulatory Systems" p. 2.

-
- ³⁶ Ronnie D. Lipschutz and Elizabeth Mayer, *Global Civil Society The Politics of Nature from Place to Planet* (New York: State University of New York Press, 1996), p. 252.
- ³⁷ Courville, "Understanding NGO-Based Social and Environmental Regulatory Systems" p. 2.
- ³⁸ Held et al. *Global Transformations*, pp. 447- 449.
- ³⁹ Warren "What Can Democratic Participation Mean Today", p. 682.
- ⁴⁰ Warren "What Can Democratic Participation Mean Today", p. 694.
- ⁴¹ Van Kersbergen and van Waarden, "Governance' as a Bridge Between Disciplines", p. 161.
- ⁴² Iris Marion Young, *Inclusion and Democracy* (Oxford: Oxford University Press, 2000), pp. 265-271.
- ⁴³ Held et al., *Global Transformations*, p. 447.
- ⁴⁴ Held et al., *Global Transformations*, pp. 448-450.
- ⁴⁵ Robert O. Keohane, "Global Governance and Democratic Accountability", in *Taming Globalization: Frontiers of Governance*, ed. David Held and Mathias Koenig-Archibugi (Cambridge: Polity Press, 2003) pp. 130-159, at p. 139.
- ⁴⁶ David Held, "Executive to Cosmopolitan Multilateralism", in *Taming Globalization: Frontiers of Governance*, ed. David Held and Mathias Koenig-Archibugi (Cambridge: Polity Press, 2003), pp. 174-177 at p. 177.
- ⁴⁷ Karin Bäckstrand, "Multi-Stakeholder Partnerships for Sustainable Development: Rethinking Legitimacy, Accountability and Effectiveness", *European Environment* 16 (2006) pp. 290-306 at p. 293.
- ⁴⁸ John S. Dryzek, *The Politics of the Earth: Environmental Discourses* (Oxford and New York: Oxford University Press, 1997), p. 200.
- ⁴⁹ Dryzek, *The Politics of the Earth*, pp. 198-199.
- ⁵⁰ Ibid.
- ⁵¹ Van Kersbergen and Van Waarden, "'Governance' as a Bridge Between Disciplines", pp. 149-150; Kjaer, *Governance*, p. 6.
- ⁵² Jan Kooiman, "Social-Political Governance: Introduction" in *Modern Governance: New Government Society Interactions* ed. Jan Kooiman (London: Sage, 1993) pp. 1-8 at p. 3.
- ⁵³ Jan Kooiman, "Findings, Speculations and Recommendations", in *Modern Governance: New Government Society Interactions* ed. Jan Kooiman (London: SAGE Publications, 1993), pp. 249-262, at pp. 250-251.
- ⁵⁴ Martijn Van Vliet, "Environmental Regulation of Business: Options and Constraints for Communicative Governance", in *Modern Governance: New Government Society Interactions* ed. Jan Kooiman (London: SAGE Publications, 1993) pp. 105-118, at pp. 108-109.
- ⁵⁵ William M. Lafferty and James Meadowcroft, "Democracy and the Environment: Prospects for Greater Congruence", *Democracy and the Environment: Problems and Prospects*, ed. William M.

Lafferty and James Meadowcroft (Cheltenham and Lyme: Edward Elgar, 1996), pp. 256-272 at p. 257.

⁵⁶ Daniel J. Fiorino, "Rethinking Environmental Regulation: Perspectives on Law and Governance", *The Harvard Environmental Law Review* 23(2) (1999) pp. 441-469 at p. 443.

⁵⁷ Van Vliet, "Environmental Regulation of Business", pp. 107-110.

⁵⁸ Van Vliet, "Environmental Regulation of Business" pp. 108-111.

⁵⁹ Fiorino, "Rethinking Environmental Regulation", pp. 443-447.

⁶⁰ Fiorino, "Rethinking Environmental Regulation", pp. 467-468.

⁶¹ Pieter Glasbergen, "Learning to Manage the Environment" in *Democracy and the Environment: Problems and Prospects*, ed. William M. Lafferty and James Meadowcroft (Cheltenham and Lyme: Edward Elgar, 1996), pp. 175-193.

⁶² Fiorino, "Rethinking Environmental Regulation", pp. 460-462.

⁶³ Glasbergen, "Learning to Manage the Environment", pp. 189-191.

⁶⁴ Glasbergen, "Learning to Manage the Environment", p. 176.

⁶⁵ Takashi Inoguchi and Paul Bacon, "Governance, Democracy, Consolidation and the 'End of Transition'" *Japanese Journal of Political Science* 4 (2) (2003), pp. 169-190 at p. 169.

⁶⁶ Inoguchi and Bacon, "Governance, Democracy, Consolidation", pp. 169-170.

⁶⁷ Inoguchi and Bacon, "Governance, Democracy, Consolidation", p. 170, citing K. Yu, "Toward an Incremental Democracy and Governance: Chinese Theories and Assessment Criteria", *New Political Science* 24 (2) (2002).

⁶⁸ Paul Hirst, "Democracy and Governance", in *Debating Governance: Authority, Steering and Democracy*, ed. Jon Pierre (New York: Oxford University Press, 2000) pp. 13-35.

⁶⁹ Hirst, "Democracy and Governance", pp. 14-19.

⁷⁰ Hirst, "Democracy and Governance", pp. 19-20.

⁷¹ Lisa Blomgren Bingham, Rosemary O'Leary and Tina Nabatchi, "Legal Frameworks for the New Governance: Processes for Citizen Participation in the Work of Government", *National Civic Review*, (Spring) (2005), pp. 54-61, at p. 54.

⁷² Bingham et al, "Legal Frameworks for the New Governance", pp. 54-55.

⁷³ Jon Pierre and B. Guy Peters, *Governance, Politics and the State* (Basingstoke and London: Macmillan, 2000), p.142.

⁷⁴ Burkard Eberlein and Dieter Kerwer, "New Governance in the European Union: A Theoretical Perspective", *Journal of Common Market Studies* 42 (1) pp. 121-142, at p. 122.

⁷⁵ Eberlein and Kerwer, "New Governance in the European Union" pp. 131-132.

⁷⁶ Michael Dorf and Charles Sabel, "A Constitution of Democratic Experimentalism", *Columbia Law Review*, 98 (2) (1998), pp. 267-473, at pp. 316-23.

⁷⁷ Dorf and Sabel, "A Constitution of Democratic Experimentalism", p. 316.

-
- ⁷⁸ Dorf and Sabel, "A Constitution of Democratic Experimentalism", pp. 349-354.
- ⁷⁹ Dorf and Sabel, "A Constitution of Democratic Experimentalism", p. 350.
- ⁸⁰ Dorf and Sabel, "A Constitution of Democratic Experimentalism", pp. 388-404.
- ⁸¹ Paul Hirst, "Democracy and Governance" p. 28.
- ⁸² Paul Hirst, "Democracy and Governance" pp. 28-33.
- ⁸³ Robert Falkner, "Private Environmental Governance and International Relations: Exploring the Links", *Global Environmental Politics* 3 (2) (2003), pp. 72-87, at p. 86.
- ⁸⁴ Arts, "Non-state Actors in Global Governance", p. 178.
- ⁸⁵ Falkner, "Private Environmental Governance", pp. 72-73.
- ⁸⁶ Virginia Haufler, *A Public Role for the Private Sector: Industry Self-regulation* (Washington: Carnegie Endowment for International Peace, 2001), p. 1.
- ⁸⁷ Haufler, *A Public Role for the Private Sector*, pp. 13-15.
- ⁸⁸ Haufler, *A Public Role for the Private Sector*, p. 29.
- ⁸⁹ Patricia Birnie, "The UN and the Environment" in *United Nations, Divided World: The UN's Roles in International Relations*, ed. Adam Roberts and Benedict Kingsbury, (Oxford: Oxford University Press, 2000), pp. 327-383 at p. 372.
- ⁹⁰ Haufler, *A Public Role for the Private Sector*, p. vii.
- ⁹¹ Haufler, *A Public Role for the Private Sector*, p. 121.
- ⁹² Haufler, *A Public Role for the Private Sector*, p. 122.
- ⁹³ Ibid.
- ⁹⁴ Ruggie, "Taking Embedded Liberalism Global", p. 109.
- ⁹⁵ There are, for example, two standardised reporting systems in the apparel industry: AccountAbility 1000 and the Global Reporting Initiative (Ruggie, "Taking Embedded Liberalism Global", p. 109).
- ⁹⁶ Ruggie, "Taking Embedded Liberalism Global", pp. 104-109.
- ⁹⁷ Ruggie, "Taking Embedded Liberalism Global", p. 108, citing Gary Gereffi, Ronie Garcia-Johnson and Erika Sasser, "The NGO-Industrial Complex" *Foreign Policy* 125 (2001).
- ⁹⁸ Ruggie, "Taking Embedded Liberalism Global", p. 1005.
- ⁹⁹ Benjamin Cashore, Graeme Auld and Deanna Newsom, "Forest Certification (Eco-labelling) Programs and their Policy-making Authority: Explaining Divergence Among North American and European Case Studies", *Forest Policy and Economics* 5 (2003) pp. 225-247; Errol Meidinger, "The Administrative Law of Global Private-Public Regulation: The Case of Forestry", *The European Journal of International Law* 17 (1) (2006), pp. 47-87.
- ¹⁰⁰ Sonnenfeld and Mol, "Globalization and the Transformation of Environmental Governance", pp. 13181323.

¹⁰¹ Rosenau, "Change, Complexity and Governance in a Globalizing Space", p. 172

¹⁰² Lipschutz, "Global Civil Society", p. 249, quoting James Rosenau, "Governance, Order, and Change in World Politics," *Governance without Government: Order and Change in World Politics* ed. James Rosenau and Ernst-Otto Czempiel (Cambridge: Cambridge University Press, 1992), pp. 1-29 at pp. 4-5.

¹⁰³ Andrew Jordan, Rüdiger K. W. Wurzel and Anthony Zito, "The Rise of 'New' Policy Instruments in Comparative Perspectives: Has Governance Eclipsed Government?" *Political Studies* 53 (2005) pp. 441-469, at pp. 480-483.

¹⁰⁴ Jordan, Wurzel and Zito, "The Rise of 'New' Policy Instruments", pp. 492-494.

¹⁰⁵ Peter Glück, Jeremy Rayner, Benjamin Cashore, Arun Agrawal, Steven Bernstein, Doris Capistrano, Karl Hogl, Bernd-Markus Liss, Connie McDermott, Jagmohan S. Maini, Tapani Oksanen, Pekka Ollonqvist, Helga Pülzl, Rwald Rametsteiner and Werner Pleschberger, "Changes in the Governance of Forest Resources", in *Forests in the Global Balance* ed. G. Mery, R. Alfaro, M. Kaninnen, and M. Lobovikov (Helsinki: IUFRO, 2005), pp. 51-74, p. 54.

¹⁰⁶ Kjaer, *Governance*, pp. 191-192.

¹⁰⁷ Alkuin Kölliker, "Conclusion 1: Governance and Public Goods Theory", in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi and Michael Zürn (Basingstoke and London: Palgrave Macmillan, 2006) pp. 201-235 at p. 208.

¹⁰⁸ Kjaer, *Governance*, pp. 172-187. Ironically, the World Bank has itself come under criticism for a lack of some of the attributes of 'good' governance (such as accountability and transparency) that it is trying to promote amongst its clients. Other global governance processes such as United Nations' Multistakeholder Partnership Initiative are also encouraging the growth of public-private initiatives, raising further questions regarding the legitimacy, accountability and effectiveness of such approaches (ibid).

¹⁰⁹ Bäckstrand, "Multi-Stakeholder Partnerships for Sustainable Development" pp. 292-293. Other scholars looking at quality of global governance also include accountability as a key aspect of democratic and legitimate governance. Courville includes accountability in her collection of 'lenses' for evaluating governance systems, but also includes the less tangible attributes of ownership, trust, and reflexivity (Sasha Courville, "Social Accountability Audits: Challenging or Defending Democratic Governance?" *Law and Policy* 25 (3) (2003), pp 269-297.

¹¹⁰ Bäckstrand, "Multi-Stakeholder Partnerships for Sustainable Development" pp. 292-293.

¹¹¹ See for example Conor O'Dwyer and Daniel Ziblatt, "Does Decentralisation Make Government More Efficient and Effective?" *Commonwealth & Comparative Politics* 44, (3)(2006) pp. 326-343, at p. 327, also Fara Azmat, "Good Governance and Market-based Reforms: a Study of Bangladesh", *International Review of Administrative Sciences* 71, (4) (2005), pp. 625-638, Mateus Tomsic and Urban Vehovar, "Kakovost Vladanja v Starih in Novih Clanicah

Evropske Unije” (The Quality of Governance in Old and New EU Member-States), *Teorija in Praksa*, 43, (3-4) (2006), pp. 386-405.

¹¹² Van Kersbergen and van Waarden, “ ‘Governance’ as a Bridge Between Disciplines”, p. 158.

¹¹³ Kjaer, *Governance*, p. 12, citing Fritz W. Scharpf, *Games Real Actors Play. Actor-Centered Institutionalism in Policy Research* (Boulder CO: Westview Press, 1997), p. 153.

¹¹⁴ Stijn Smismans, *Law, Legitimacy, and European Governance* (Oxford: Oxford University Press, 2004), pp. 459-460.

¹¹⁵ Kooiman, “Findings, Speculations and Recommendations”, pp. 259-260.

¹¹⁶ Kjaer, *Governance*, p. 12, citing Fritz W. Scharpf, *Games Real Actors Play. Actor-Centered Institutionalism in Policy Research* (Boulder CO: Westview Press, 1997), p. 153.

¹¹⁷ Van Kersbergen and van Waarden, “ ‘Governance’ as a Bridge Between Disciplines”, p. 158.

¹¹⁸ Van Kersbergen and van Waarden, “ ‘Governance’ as a Bridge Between Disciplines”, p. 156.

¹¹⁹ Oran R. Young, “Hitting the Mark: Why are Some Environmental Agreements More Effective Than Others?” *Environment* 20 (1999), reproduced in *Making Law Work: Environmental Compliance & Sustainable Development*, ed. Durwood Zaelke, Donald Kainaru and Eva Kružíková, (London: Cameron May, 2005) volume 1, p. 189.

¹²⁰ Young, “Hitting the Mark” pp. 189-191.

¹²¹ Van Kersbergen and Van Waarden, “ ‘Governance’ as a Bridge between Disciplines”, p. 156.

¹²² Jørgen Wettestad, “Designing Effective Environmental Regimes: The Conditional Keys” *Global Governance* 7(3) (2001) pp. 317-341 at p. 317.

¹²³ Wettestad, “Designing Effective Environmental Regimes”, p. 319.

¹²⁴ Ibid.

¹²⁵ Wettestad, “Designing Effective Environmental Regimes”, p. 320.

¹²⁶ Peter Haas, “Addressing the Global Governance Deficit”, *Global Environmental Politics* 4 (4) (2004), pp. 1-15, at p. 1. Glück et al point to the accountability, responsibility and legitimacy issues associated with network governance (Peter Glück, Jeremy Rayner, Benjamin Cashore, Arun Agrawal, Steven Bernstein, Doris Capistrano, Karl Høgl, Bernd-Markus Liss, Connie McDermott, Jagmohan S. Maini, Tapani Oksanen, Pekka Ollonqvist, Helga Pölzl, Rwald Rametsteiner and Werner Pleschberger, “Changes in the Governance of Forest Resources”, in *Forests in the Global Balance* ed. G. Mery, R. Alfaro, M. Kaninnen, and M. Lobovikov (Helsinki: IUFRO, 2005), pp. 51-74, at p. 54).

¹²⁷ Koenig-Archibugi, “Introduction: Institutional Diversity in Global Governance”, Footnote 13, p. 24.

¹²⁸ Stiglitz, “Globalization and Development”, p. 61.

¹²⁹ Koenig-Archibugi, “Introduction: Institutional Diversity in Global Governance”, p. 13.

¹³⁰ Stiglitz, “Globalization and Development”, pp. 61-62.

¹³¹ Mathias Koenig-Archibugi, "Introduction: Institutional Diversity in Global Governance", p. 14. This interpretation differs from that contained in Patricia Nanz and Jens Steff, "Assessing the Democratic Quality of Deliberation", *Acta Politica* 40 (3) (2005), pp. 368-383, p. 373, where access ("Access to deliberation") is seen as a separate democratic indicator of quality of deliberation from inclusiveness ("Inclusion of all voices"). This example highlights the problem of contradictory, or crosscutting sets of indicators in the literature.

¹³² Koenig-Archibugi, "Introduction: Institutional Diversity in Global Governance", pp. 14-15.

¹³³ Koenig-Archibugi, "Introduction: Institutional Diversity in Global Governance" p. 15 (emphasis in original), citing Michael Zürn and J. Neyer, "Conclusions-the Conditions of Compliance", in Michael Zürn and C. Joerges (ed.), *Law and Governance in Post-National Europe. Compliance beyond the Nation State*, emphasis in original (Cambridge University Press: Cambridge, 2005 p. 199.

¹³⁴ Young, *Inclusion and Democracy*, pp. 11-12.

¹³⁵ Young, *Inclusion and Democracy*, p. 13.

¹³⁶ Young, *Inclusion and Democracy*, p. 8.

¹³⁷ Jan Aart Scholte, "Civil Society and Democratically Accountable Global Governance", *Government and Opposition* (Blackwell Publishing: Oxford and Malden, USA, 2004), pp. 211-233 at p. 223.

¹³⁸ Scholte, "Civil Society and Democratically Accountable Global Governance", pp. 224-225.

¹³⁹ For further discussion on the matter of participatory and representative democracy in addition to the material below, see: Daniel Fiorino, "Environmental Policy and the Participation Gap", in *Democracy and the Environment: Problems and Prospects*, ed. William M. Lafferty and James Meadowcroft (Cheltenham and Lyme: Edward Elgar, 1996), pp. 194-212 at pp.194-201; Andrew Dobson, "Representative Democracy and the Environment", in the same volume, pp. 124-139; and Lafferty and Meadowcroft, "Democracy and the Environment", p. 260.

¹⁴⁰ Rhodes, *Understanding Governance*, p. 198.

¹⁴¹ Warren "What Can Democratic Participation Mean Today", p. 695.

¹⁴² Warren "What Can Democratic Participation Mean Today", p. 698.

¹⁴³ Warren "What Can Democratic Participation Mean Today", pp. 695-696. He adds that non-state associations can change market externalities that states -- or corporations - cannot, such as environmental damage, and also makes the interesting observation that "Numerous associations are developing programs to certify products -- wood products for example -- in effect allowing consumers to vote with their purchases for public goods such as ecologically sustainable forestry" ("What Can Democratic Participation Mean Today", pp. 689-693, at p. 693).

¹⁴⁴ Gerald Berger, "Reflections on Governance: Power Relations and Policy Making in Regional Sustainable Development", *Journal of Environmental Policy and Planning*, 5 (3) 2003, pp. 219-234, at pp. 224-225.

¹⁴⁵ Katharine N. Farrell, “Recapturing Fugitive Power: Epistemology, Complexity and Democracy”, *Local Environment* 9 (5) pp. 469-470, p. 476.

¹⁴⁶ Smismans, *Law, Legitimacy and European Governance*, p. 26.

¹⁴⁷ Warren “What Can Democratic Participation Mean Today”, p. 695.

¹⁴⁸ Michael Mason, *Environmental Democracy*, (New York: St Martin’s Press, 1999), pp. 72-73. See also Martin Jänicke, “Conditions for Environmental Policy Success: An International Comparison”, *The Environmentalist* 12 (1992), pp. 47-58, “Democracy as a Condition for Environmental Policy Success: the Importance of Non-institutional Factors”, in *Democracy and the Environment: Problems and Prospects*, ed. William M. Lafferty and James Meadowcroft (Cheltenham and Lyme: Edward Elgar Publishing, 1996), pp. 71-85; “The Political System’s Capacity for Environmental Policy”, in *Successful Environmental Policy: A Critical Evaluation* ed. Martin Jänicke and Helmut Weidner, (Springer: Berlin, 1997).

¹⁴⁹ Richard Simmons and Johnston Birchall, “A Joined-up Approach to user Participation in Public Services: Strengthening the ‘Participation Chain’” *Social Policy and Administration* 39 (3) (2005), pp. 260-283 at pp. 277-278.

¹⁵⁰ Held et al. point to three schools of thought. Liberal internationalism, seeks to transpose “a weak form of domestic liberal democracy into a model of democratic world order” in order to avoid the global ecological crisis and manage the negative social, economic and political impacts of globalisation (Held et al., *Global Transformations*, p. 447). Radical republicanism seeks the creation of “alternative mechanisms of global social, economic and political organization” in which people are empowered to create self-governed communities motivated by ‘humane governance’ principles, which seek the public good (Held et al., *Global Transformations*, p. 449). They favour a third model - cosmopolitan democracy, “where citizens enjoy multiple citizenships” and in which they are mediators of the aspirations of “overlapping communities” (ibid).

¹⁵¹ Dieter Kerwer, “Governing Financial Markets by International Standards”, in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi and Michael Zürn (Basingstoke and London: Palgrave Macmillan, 2006), p. 83. It should be noted that this is a different conception from other scholars, such as O’Donnell, for example, and reflects the changed conditions under social-political global governance institutions. O’Donnell’s conception reads “accountability runs not only vertically, making elected officials answerable to the ballot box, but also horizontally, across a network of relatively autonomous powers (i.e., other institutions) that can call into question, and eventually punish, improper ways of discharging the responsibilities of a given office” (Guillermo O’Donnell, *Delegative Democracy. Counterpoints: Selected Essays on Authoritarianism and Democratization* (Notre Dame: University of Notre Dame Press, 1999) pp. 159-174 at p. 165).

¹⁵² Smismans, *Law, Legitimacy and European Governance*, p. 22.

¹⁵³ Scholte, “Civil Society and Democratically Accountable Global Governance”, pp. 211-233.

-
- ¹⁵⁴ Keohane, "Global Governance and Democratic Accountability", pp. 132-133.
- ¹⁵⁵ Scholte, "Civil Society and Democratically Accountable Global Governance", pp. 211-212.
- ¹⁵⁶ James Rosenau, "Governance in a Globalizing Space", p. 193.
- ¹⁵⁷ Keohane, "Global Governance and Democratic Accountability", pp. 144-145.
- ¹⁵⁸ Anne Bichsel, "NGOs as Agents of Public Accountability and Democratisation in Intergovernmental Forums" in *Democracy and the Environment*, ed. William M. Lafferty and James Meadowcroft (Cheltenham, and Lyme: Edward Elgar Publishing, 1996) pp. 234-255 at p. 235.
- ¹⁵⁹ Bichsel, "NGOs as Agents of Public Accountability", pp. 236-253.
- ¹⁶⁰ Gerry Stoker, "Governance as Theory: Five Propositions", *International Social Science Journal*, 50 (155) (1998), pp. 17-28, at pp. 23-24.
- ¹⁶¹ Keohane, "Global Governance and Democratic Accountability", pp. 132-133.
- ¹⁶² Keohane, "Global Governance and Democratic Accountability" p. 137.
- ¹⁶³ Joseph E. Stiglitz, "Globalization and Development", in *Taming Globalisation: Frontiers of Governance* ed. David Held and Matthias Koenig-Archibugi (Cambridge: Polity Press, 2003), pp. 47-67, at p. 63.
- ¹⁶⁴ Kölliker, "Conclusion 1", p. 208.
- ¹⁶⁵ Smismans, *Law, Legitimacy and European Governance*, pp. 41, 73-75, 449-453.
- ¹⁶⁶ Rod Rhodes, "The New Governance: Governing Without Government", *Political Studies* 44 (1996) pp. 652-667 at p. 667.
- ¹⁶⁷ Pierre and Peters, *Governance, Politics and the State* p. 67.
- ¹⁶⁸ Rod Rhodes, *Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability* (Buckingham: Open University Press, 1997), pp. 54-55. Janet Newman, Marian Barnes, Helen Sullivan and Andrew Knops, using empirical data, identify a relationship between the responsiveness of 'new' governance and its transparency and accountability, most notably in the capacity of such collaborative arrangements to respond to their participants' concerns. In the case of such mechanisms in the UK, innovative consultation mechanisms have fallen short in delivering tangible outcomes, or feedback from official bodies to the comments made. Participants identified a lack of transparency in such bodies, notably where the responsibility for action lay ("Public Participation and Collaborative Governance", *Journal of Social Politics* 33 (2) (2004), pp. 203-223, at pp. 212-213).
- ¹⁶⁹ Rhodes, *Understanding Governance*, pp. 54-55. The observation should be made here that non-state, or partial-state mechanisms should not be judged by higher standards than states in this regard, however. The point should be made that many states are either only partially, or not at all accountable if they are proto-, pseudo- or authoritarian democracies. Even liberal democracies are only formally accountable during election periods, and in between election cycles governments may implement unpopular and non-accountable policies.

-
- ¹⁷⁰ Mark Callanan, "Institutionalizing Participation and Governance? New Participative Structures in Local Government in Ireland" *Public Administration* 83 (4) (2005) pp. 909-929, at p. 914.
- ¹⁷¹ Mark Callanan, "Institutionalizing participation and governance?" pp. 910-911.
- ¹⁷² Pierre and Peters, *Governance, Politics and the State* pp. 195-196.
- ¹⁷³ Rhodes, *Understanding Governance*, p. 198.
- ¹⁷⁴ Farrell, "Recapturing Fugitive Power", p. 476.
- ¹⁷⁵ Berger, "Reflections on Governance", pp. 224-225.
- ¹⁷⁶ Smismans, *Law, Legitimacy, and European Governance*, p. 22.
- ¹⁷⁷ Mark Callanan, "Institutionalizing participation and governance?" pp. 910-911.
- ¹⁷⁸ Keohane, "Global Governance and Accountability", p. 139.
- ¹⁷⁹ David Held, "Executive to Cosmopolitan Multilateralism", in *Taming Globalization: Frontiers of Governance*, ed. David Held and Mathias Koenig-Archibugi (Cambridge: Polity Press, 2003), pp. 174-177.
- ¹⁸⁰ Dryzek, *The Politics of the Earth*, p. 200.
- ¹⁸¹ Dryzek, *The Politics of the Earth*, p. 90.
- ¹⁸² Lawrence Susskind, *Environmental Diplomacy: Negotiating More Effective Global Agreements* (New York, Oxford: Oxford University Press, 2004), p. 7
- ¹⁸³ Susskind, *Environmental Diplomacy*, p. 61; Ivana Zovko, "International Law-Making for the Environment: A Question of Effectiveness", in *International Environmental Law-making and Diplomacy Review 2005* ed. Marko Berglund (Joensuu: University of Joensuu Department of Law, 2006), pp.109-128, at p. 128, citing R. Churchill and G. Ulfstein, "Autonomous Institutional Arrangements in Multilateral Environmental Agreements: A Little noticed Phenomenon in International Law", *American Journal of International Environmental Law* 94 (2000), p. 623.
- ¹⁸⁴ Susskind, *Environmental Diplomacy*, p. 7.
- ¹⁸⁵ Susskind, *Environmental Diplomacy*, p. 61.
- ¹⁸⁶ Meadowcroft and Lafferty, "Democracy and the environment", p. 257.
- ¹⁸⁷ Jänicke, "Conditions for Environmental Policy Success", p. 48.
- ¹⁸⁸ Cary Coglianese, *Is Consensus an Appropriate Basis for Regulatory Policy?* (Cambridge MA: Harvard University Press, 2000).
- ¹⁸⁹ Coglianese, *Is Consensus an Appropriate Basis*, p. 8, citing K. Werhan, "Delegalizing Administrative Law", *University of Illinois Law Review* (1996), p. 423.
- ¹⁹⁰ Coglianese, *Is Consensus an Appropriate Basis*, p. 8, citing W Funk, "Bargaining Toward the New Millenium: Regulatory Negotiation and the Subversion of the Public Interest", *Duke Law Journal*, 46 (1997), p. 1351.
- ¹⁹¹ Coglianese, *Is Consensus an Appropriate Basis*, pp. 4-6.
- ¹⁹² Coglianese, *Is Consensus an Appropriate Basis*, pp. 32-33.

-
- ¹⁹³ Wettestad, "Designing Effective Environmental Regimes", pp. 318-331.
- ¹⁹⁴ Ibid.
- ¹⁹⁵ James E. Crowfoot and Julia M. Wondolleck, *Environmental Disputes: Community Involvement in Conflict Resolution* (Washington and Clovello: Island Press, 1990), p. 261.
- ¹⁹⁶ Van Vliet, "Environmental Regulation of Business" p. 111; Errol Meidinger, "The Administrative Law of Global Private-public Regulation: The Case of Forestry", *The European Journal of International Law* 17 (1) (2006), pp. 47-87, p. 25-27, Elinor Ostrom *Governing the Commons: the Evolution of Institutions for Collective Action* (Cambridge: Cambridge University Press, 1990), p. 90.
- ¹⁹⁷ Gerry Stoker, "The Challenge of Urban Government" in *Debating Governance: Authority, Steering and Democracy*, ed. Jon Pierre, (Oxford: Oxford University Press, 2000) pp. 91-109 at pp. 100-105.
- ¹⁹⁸ Van Vliet, "Environmental Regulation of Business" pp. 107-108.
- ¹⁹⁹ Stoker, "The Challenge of Urban Government", p. 105, citing A. Hirschman, "Social Conflicts as Pillars of Democratic Market Societies", in *A Propensity to Self-Subversion* (Cambridge MA: Harvard University press, 1995).
- ²⁰⁰ Ibid.
- ²⁰¹ Bingham, O'Leary and Nabatchi, "Legal Frameworks for the New Governance", pp. 54-56.
- ²⁰² Pierre and Peters, *Governance, Politics and the State*, p. 31.
- ²⁰³ Ellen Mastenbroek, "EU Compliance: Still a 'Black Hole'?" *Journal of European Public Policy* 12 (6) (2005), pp. 1103-1120.
- ²⁰⁴ Ellen Mastenbroek, "EU Compliance: Still a 'Black Hole'?" pp. 1111-1112.
- ²⁰⁵ Dryzek, *The Politics of the Earth*, pp. 80-82.
- ²⁰⁶ Zaelke et al, *Making Law Work*, p. 22, citing Kal Raustiala and Anne-Marie Slaughter, "International Law, International Relations and Compliance", in *Handbook of International Relations* 539 (2002).
- ²⁰⁷ Zaelke et al, *Making Law Work*, p. 22.
- ²⁰⁸ Zaelke et al, *Making Law Work* p. 22, citing Oran R. Young and Marc A. Levy, "The Effectiveness of International Environmental regimes", in Oran Young (ed) *The Effectiveness of International Environmental Regimes: Causal Connections and Behavioural Mechanisms* (Cambridge MA: MIT Press, 1999), pp. 3-4.
- ²⁰⁹ Zaelke et al, *Making Law Work* p. 22.
- ²¹⁰ Zaelke et al, *Making Law Work* p. 23, citing Ronald B. Mitchell, "Compliance Theory: An Overview" in *Improving Compliance with International Environmental Law*, ed. James Cameron, Jacob Werksman and Peter Roderick (London: Earthscan, 1996) p. 25.

-
- ²¹¹ Jon Birger Skjærseth, Olav Schram Stokke and Jørgen Wettestad, “Soft Law, Hard Law, and Effective Implementation”, *Global Environmental Politics* 6 (3) (2006), pp. 104-120.
- ²¹² Skjærseth, et al, “Soft Law, Hard Law, and Effective Implementation”, p. 105, footnote 11, following Arild Underdal, “The Concept of Regime Effectiveness”, *Cooperation and Conflict* 27 (1992), pp. 227-240.
- ²¹³ Peter Haas, “International Institutions and Social Learning in the Management of Global Environmental Risks”, *Policy Studies Journal* 28(3) (2000) pp. 558-575 at p. 559, citing E. B. Haas, “Collective Learning: Some Theoretical Speculations” in *Learning in United States and Soviet Foreign Policy* ed. G. W. Breslauer and P. E. Tetlock (Boulder, CO: Westview, 1991) at p. 63, and E. B. Haas, *When Knowledge is Power* (Berkeley, CA: University of California Press, 1990).
- ²¹⁴ Carl Folke, Thomas Hahn, Per Olsson and Jon Norberg, “Adaptive Governance of Social-Ecological Systems”, *Annual Review of Environment and Resources*, 30 (2005), pp. 441-473 at p. 447.
- ²¹⁵ Folke et al, “Adaptive Governance of Social-Ecological Systems”, pp. 463-464.
- ²¹⁶ Michael Zürn and Mathias Koenig-Archibugi, “Conclusion II: Modes and Dynamics of Global Governance”, in *New Modes of Governance in the International System: Exploring Publicness, Delegation and Inclusion*, ed. Mathias Koenig-Archibugi and Michael Zürn (London: Palgrave Macmillan, 2006), pp. 236-254 at p. 251; see also Stoker, “The Challenge of Urban Government p. 107.
- ²¹⁷ Peter Haas, “UN Conferences and Constructivist Governance of the Environment”, *Global Governance* 8 (1) (2002), pp. 73-91, at p. 74; Glück et al., “Changes in the Governance of Forest Resources” p. 51.
- ²¹⁸ Kjaer, *Governance*, p. 190.

Global Governance and Forest Management: An Analytical Framework

Introduction

This chapter is in two parts. Echoing the discussions in the previous chapter regarding the changing nature of global governance and its institutional expression, Part I looks specifically at the sphere of global environmental policy, targeting forest management as an issue area that makes one of the most useful contributions to understanding and advancing both theory and practice. This section surveys the evolution of forest governance tracing a move away from purely intergovernmental arenas towards alternative forums and new types of policy instrument, most notably forest certification. It revisits the concept of quality and legitimacy in this specific context, and provides some examples as to how forest governance, in its various forms, has tackled these issues. Here, the implied link between legitimacy and quality of governance already alluded to in the previous chapter is made by forest governance scholars and is expressed in the policy arena itself. In both contexts, the recognition of the need to develop assessment methods to determine the quality and legitimacy of governance is identified as a key -- but hitherto -- unresolved issue.

Building on these materials and those already discussed Chapter Two, Part II provides an analytical method for determining governance quality and legitimacy. It begins with a synthesis of the theory and practice of global governance previously introduced and points out the current impediments to the development of such an analysis. It first discusses the lack of a consistent system of institutional classification, and presents an analytical solution, based upon

understanding contemporary governance in terms of three central and universally relevant parameters; authority, innovation and democracy. Having provided a means for comparative analysis of divergent institutional types, this section moves on to the next ‘problem’ of legitimacy, namely its relationship to quality of governance and how to determine, or evaluate, quality. There it is argued that legitimacy of global governance is to be understood largely in terms of structure and process and it is the degree of interaction between these elements that determines quality of governance. Each of the governance arrangements linked to legitimacy in the previous chapter (such as accountability and transparency) are subsequently located hierarchically within an assessment framework based upon principles, criteria and indicators (PC&I). The institutional relationship of these PC&I to the structures and processes of governance is explained diagrammatically. An evaluative matrix and rating system, based upon these PC&I is provided as a means of evaluating the performance of the case studies in the following chapters. A short concluding section reflects on the evolution of contemporary governance and prepares the reader for the following case study chapters.

Part I

Global Forest Governance: From the Old to the New

Forest governance provides one of the best spaces available to study the emergence of new modes of governance that have arisen in response to globalisation.¹ This is because it is in the forest sector specifically that some of the most extensive and innovative experiments in ‘new’ governance -- of which forest certification is one of the most interesting -- exist.² What is occurring in this domain contains theoretically interesting reactions to some of the larger political

and economic trends associated with globalisation and governance outlined in Chapter 1. Forest governance consequently provides one of the most useful lenses through which to scrutinise “the increasing tendency for collaboration in many sectors where political and economic trade-offs also exist.”³ It is in the forestry arena that environmental governance, understood as “the coordination of interdependent social relations in the mitigation of environmental disruptions” mostly clearly reflects the involvement of civil society and private industry, in the development of regulatory regimes, as well as the state.⁴

Historical Overview

Public concern about global deforestation became pronounced in the 1980s.⁵ Deforestation has been attributed to a wide range of causes including international development and debt policies, population growth, poverty, drug cultivation, wars and the role of the military, land tenure inequities and natural causes.⁶ Transnational corporate financial investment associated with the exportation of timber from producer countries to consumer countries has also been identified as playing a significant role.⁷

The literature has outlined a historical narrative in which NGOs became increasingly active in their attempts to influence global timber policies and processes. This was partly a response to calls from social and environmental groups in the South for assistance in helping them save their forests, and recognition of the failure of the international policy community to solve the problems of forest degradation and deforestation.⁸ NGOs in the North began to look at the tropical timber trade in particular, and ways to influence that trade. They began to place forest conservation campaigns within the context of trade, leading to the development of a range of trade related strategies. These ultimately

led to an expansion beyond tropical rainforests to include temperate and boreal forests and involved large numbers of NGOs carrying out many interrelated but separate campaigns: targeting particular kinds of businesses (such as retail stores selling timber, or transnational corporations associated with the international timber trade); trying to persuade local and state governments to refrain from using tropical timber in building projects; and pressurising national governments and supranational bodies, such as the EU, to ban tropical imports.⁹

By 1988 NGO efforts in Europe had been successful enough to bring about a vote in the EU Parliament, which recommended an import ban be put in place by EU members until logging of tropical rainforest -- particularly in Malaysia -- became sustainable, although this was later overturned by the EU Commission. By 1989, the call for a boycott had spread beyond Europe to groups in countries such as Australia, who began blockading ships, and in the US and Europe to a full-scale boycott of companies, implicated in tropical rainforest logging. By 1990 the impact of local government bans in Europe caused Malaysia and Indonesia to threaten trade retaliations. In 1992 the Austrian government imposed its own import ban but dropped it a year later after Switzerland, which looked like following suit, was threatened with a counter-ban against Nestlé by Malaysia. In 1993 Dutch NGOs signed an agreement with the Dutch government and timber importers, which established a 1995 deadline on the importation of unsustainable timber.¹⁰

While some NGOs pursued export bans and timber boycotts, others looked to existing intergovernmental initiatives, such as the International Tropical Timber Organisation (ITTO), as potential levers for change. NGOs began to lobby ITTO members to impose sustainability requirements on the tropical timber trade.¹¹ The

ITTO had been founded in 1983 by 64 countries, under the auspices of the United Nations Conference on Trade and Development (UNCTAD), and comprised producers and consumers of tropical timber who were given a mandate to consider global resource management issues.¹² In 1985, the International Year of the Forest, a range of UN institutions continued to work on the development of a number of forest initiatives.¹³ In the same year, the International Tropical Forest Timber Agreement (ITTA), considered to be the first commodity agreement designed to include forest conservation, and one of the chief products of the ITTO, received enough signatories to become ratified, but with a slow take up from producer countries it did not gain legal recognition until 1994.¹⁴ Further initiatives included the finalisation of negotiations regarding a Tropical Forestry Action Plan (TFAP), which had commenced in the early 'eighties and was concluded in 1986 with the Plan's endorsement at the eighth session of the FAO's Committee on Forestry (COFO).¹⁵ However, all these initiatives have been accused of failing "to deal successfully with the complex global dynamics that give rise to environmental problems such as deforestation."¹⁶ The ITTO in particular, "hamstrung by political compromise, was unable to take decisive action."¹⁷

By 1988 increasing NGO disillusion over ITTO's lack of action in combating deforestation led the international environmental NGO the World Wide Fund for Nature (WWF) to warn ITTO that if it failed to start working towards tropical forest conservation, NGOs would look at other means to achieve it.¹⁸ Part of the problem was that NGOs and trade-related interests placed different emphases on the conservation/development objectives implicit in the concept of SFM. These differences, which had first formally arisen in the deliberations within ITTO, were

ultimately to be expressed via competitive industry- and NGO-driven market-based systems of forest certification.¹⁹

The Earth Summit and the Failure of Intergovernmentalism

UNCED, or the 'Earth Summit', held in Rio de Janeiro in 1992, played an important normative role in shaping the general response to the environmental crisis, including deforestation, through the promotion of standards-based approaches as a method of problem solving.²⁰ It has been argued that the standards that emerged in the post-Rio environment demonstrated the failure of previous international efforts to govern the environmental and social activities of transnational corporations more aggressively. Rio has been seen as paving the way for voluntary and self-regulatory initiatives, often developed directly by corporate interests.²¹ Several commentators attribute this outcome to the considerable level of corporate attendance at the Earth Summit.²² Rio, in effect, legitimised the idea of voluntary standards, which was reflected in the outcome document of the Rio negotiations, *Agenda 21*. Both private businesses and industry associations were encouraged to promote clean production and to reduce hazardous waste generated by industrial activity via such initiatives.²³ *Agenda 21* resulted in the development of a number of environmental management programmes designed to create standards and certify compliance, including the ISO 14000 Series (Environmental Management Systems). Corporate activity in this context does not cut across the environmental legislative and regulatory arrangements of the nation state. Standards are restricted to providing a framework under which a company systematises its own internal environmental management priorities, and such standards do not specify absolute environmental performance requirements.²⁴

UNCED and its successors have been particularly criticised by a number of scholars in the field of forest governance for failing to take effective action to combat deforestation.²⁵ Despite the promises and optimism generated at Rio for a global approach to forest issues, none was reached, and subsequent forest-related agreements (such as the 1994 renegotiated ITTA), were much weaker than expected.²⁶ Rio was ultimately unsuccessful in bringing to forests the same degree of cooperation as climate change, biological diversity and desertification, and the widely anticipated legally binding instrument on forests did not eventuate.²⁷

Various intergovernmental institutions within the UN system were involved with the forest-related policy decisions arising from the substantive Rio document, *Agenda 21*, and the related *Statement of Forest Principles*. Forests were one of the issues dealt with by *Agenda 21* (Chapter 11, combating deforestation), and initially, post-Rio it was felt that there was a need for a specific body to tackle the forest issue; this was the Intergovernmental Panel on Forests (IPF), which functioned from 1995-97 to “provide a forum for forest policy decisions.”²⁸ In 1997 the Intergovernmental Forum on Forests was established, running until 2000. In terms of substantive outcomes, the IPF/IFF deliberations generated 270 Proposals for Action (PFAs).²⁹ In 2000 a third body, the United Nations Forum on Forests (UNFF), was created.³⁰ All three of these processes have been dismissed as being based on lowest common denominator politics, producing sub-optimal outcomes.³¹ They have been interpreted as part of a long line of competing, and/or concurrent -- but ultimately failed -- attempts to tackle deforestation.³²

Contemporary Forest Governance

Discussions regarding forest governance are not confined to any analytical school, and consequently, like broader governance theory, it is subject to varying interpretations. International forest deliberations of the intergovernmental variety, although challenged regarding their effectiveness, have not been wholly replaced, and therefore sit alongside and complement a number of newer governance types, including national forest programmes, forest certification, and various other public, civic and private initiatives.³³ This has resulted in some confusion in the literature as to whether these separate initiatives represent forest regimes in their own right, or whether they should be treated as discrete parts of an international forest regime. Humphreys notes the disputes within the literature questioning the existence of an international forest regime, since there is no international forest convention. He agrees with European forest policy scholars that such a regime has emerged since the mid 1990s and argues for a revised definition of a regime as encompassing three aspects: the more commonly-recognised ‘hard’ law arrangement of a single international legal convention backed up by subsequent protocols; ‘soft’ law, such as non-legally binding instruments increasingly preferred by states, including the resolutions adopted by UNFF; he also identifies what he refers to as private international law.³⁴

Such a three-fold analysis may unduly restrict the regime concept, and it may be too early to identify any normative regime consensus around which actor expectations are converging. There is general agreement amongst scholars, however, that contemporary forest governance reflects the trend away from top-down approaches towards new governance, notably forest governance by networks.³⁵ In addition to the previous failings of the ITTO, the inability of Rio to

combat deforestation comprehensively has been identified as a catalyst for the growth of forest certification specifically, which has been categorised as an example of the network model of forest governance.³⁶ There is also a link to governmental processes in the origins of certification, however. Various post-Rio intergovernmental forest deliberations, including Montréal and Helsinki, developed principles and criteria for SFM, which were subsequently expressed in the market through certification schemes developed by such organisations such as the Canadian Standards Association (CSA). FSC is characterised as an alternative, specifically non-governmental system, which has developed its own principles and criteria independently of governments.³⁷ Certification, it has been argued, has had a powerful influence on forest owners and is more successful in terms of protecting areas than public approaches, such as nature conservation agreements. It has been identified as consisting of a form of “private governance with government”, having the potential to complement, but not replace, public instruments, particularly since governments remain a key actor in both systems.³⁸ Certification plays an important role in terms of government policy implementation because it affects not only the behaviour of certified forest owners but also influences large numbers of other forest owners.³⁹ The willingness and capability of such groups to assimilate information and correct their behaviour are essential for successful policy implementation.⁴⁰

An alternative perspective argues that certification is to be understood as a new institutional form of sustainable development beyond existing governmental processes.⁴¹ Such private governance systems may improve environmental performance across the board in ways that traditional public, command and compliance models have not. The resulting voluntary-compliance market

mechanisms coincide with increased civil society demands at a time of reduced government spending, and has created a form of international ‘liberal environmentalism’ that seeks to avoid command-and-control responses and avoid traditional “business versus environment” approaches.⁴² However, the designation of all such types of governance as ‘private’ is over-simplistic, as it puts voluntary codes, public reporting and certification together when they are in fact very different governance mechanisms. The problem with such an approach, it is argued, is that it ignores the rapid development of systems of international authority, which are not driven by the state. The loss of state authority, including the granting of legitimacy to alternative venues of power -- particularly market-based instruments -- is worthy of examination in its own right. These are referred to as non-state market driven (NSMD) and represent a new type of governance.⁴³

Nevertheless, forest certification still requires compliance with government regulation. Governments can also act as stakeholders, procurers and users of certification, and can provide resources to assist those seeking certification, as well as participate in standards development.⁴⁴ However, the state does not exercise sovereign authority in requiring adherence to non-state market-driven governance systems. Rather, a whole range of organisations make decisions as to whether to support such schemes. Participants are generally the same as in public policy making (environmental NGOs, business groups, professional and trade associations), and they act as representatives for the broader public, who grant them their authority based on their shared values. Government simply becomes an interest group.⁴⁵ This has impacted on traditional notions of authority, which now sit alongside non-state and shared private/public concepts (see Table 3.1 below).⁴⁶

Table 3.1 Comparison of non-state market-driven governance sources of authority with other forms of governance

Feature	Non-state market-driven governance	Shared private/public governance	Traditional government
Location of authority	Market transactions	Government gives ultimate authority (explicit or implicit)	Government
Source of authority	Evaluations by external audiences, including those it seeks to regulate	Government's monopoly on legitimate use of force, social contract	Government's monopoly on legitimate use of force, social contract
Role of government	Acts as one interest group, landowner (indirect potential facilitator or debilitator)	Shares policy-making authority	Has policy making authority

Source: Cashore, Auld and Newsom (2004, p. 28).

Whilst it is not yet clear if non-state systems will complement or challenge the nation state, or if the nation-state will seek to simply absorb the phenomenon in some way, non-state systems mark a radical departure from the traditional Westphalian sovereign authority model of public policy.⁴⁷ As a new governance phenomenon non-state market-driven systems:

[R]epresent a grand new experiment in developing rules and procedures in ways quite foreign to traditional public policy approaches. The extent to which ... certification programs... [have] raised new and innovative ideas about the ways collaborative solutions might be found appears to be an important contribution by itself.⁴⁸

The idea that forest certification has something to offer governance as a whole is elaborated by other commentators. Meidinger considers forest certification to represent a new form of administrative law. Its procedures have an inherently high capacity for policy learning due to their dynamic nature; the rapid flows of information and multi-stakeholder dialogue and debate are valuable contributing mechanisms, but as it is still a new phenomenon, he is unsure if genuinely beneficial social learning versus opportunistic manoeuvring is occurring.⁴⁹

Conceptions of Legitimacy in Contemporary Forest Governance

Forest governance theorists acknowledge that ‘new’ governance has resulted in changed conditions for demonstrating effectiveness, and that institutional performance is understood in terms of input and output legitimacy.⁵⁰ Effectiveness describes overall performance in relation to an institution’s objectives or programmes, and efficiency denotes the cost and rate by which inputs translate into outputs.⁵¹ Non-state forest governance systems in particular have been identified as drawing their legitimacy from their core audiences. Sources of legitimacy range from the purely pragmatic, which is narrow and self interested, to the moral, based on ethical values. Legitimacy can also be derived cognitively, meaning a given scheme is understandable, or simply taken for granted.⁵² Legitimacy in this latter context can occur if an institution has been in existence long enough to become a normative institution, or by mirroring existing institutional structures, such as the UN.⁵³

Meeting the needs of the diverse stakeholder groups inherent in such systems can create internal tensions and impact on notions of legitimacy amongst stakeholders.⁵⁴ Different strategies have been undertaken to achieve legitimacy.⁵⁵ This has resulted in analysis of the rivalry between forest certification schemes in particular as being understood in terms of the different approaches adopted within each system to the common problem of gaining rule-making legitimacy between NGOs, forest owners and forest product purchasers.⁵⁶ However, certification has been identified as indicating a wider trend in the administrative law associated with global governance as it questions traditional notions as to how political legitimacy is conceived within transnational regulation.⁵⁷

Quality of Governance and Definitional Inconsistencies

In forest certification, quality of governance and legitimacy have been directly linked to participation. Other forms of forest governance beyond certification have thrown up similar discussions on how to determine quality of governance. In the case of national forest policies, participation has been similarly identified as a key constituent.⁵⁸ Interest representation, as a sub-set of participation, is seen as an important aspect of quality of governance, particularly in certification. The logic underlying this is that:

[A] standard will be good, and presumably legitimate, if it reflects the priorities of interested parties. While this concept of the public interest is not free of theoretical problems, it is difficult to argue that interested parties should not be heard, and it is also difficult to argue that a standard, which receives the assent of all affected and concerned parties is bad.⁵⁹

It is worth digressing slightly at this point and exploring by way of illustrative example what the types of interests associated with this form of forest governance are. Broadly speaking, these have been broken down into those with a general interest, political interest and financial interest. Generalists are seen as existing externally to the particular system, laying claim to a high-level set of concerns regarding social, environmental and political correctness and aesthetics, and include such interests as the public and the media. Political interests are portrayed as those who gain benefit or advantage from the existence of the process rather than the process itself, and include government, forest agencies, knowledge-based institutions (research or educational), and NGOs. Those with a financial interest are more concerned with the impacts of environmental and social considerations on the economic aspects of the system, such as competitiveness, marketing and prosperity, and include such groups as forest owners, forest industry and forestry-dependent communities.⁶⁰

Given the diverse nature of participants in forest governance, how these interests are balanced has consequently been identified as being crucial for broader credibility and rulemaking legitimacy.⁶¹ There is a special need to balance interests effectively through inclusiveness, which is seen as being instrumental in regulatory credibility and authority.⁶² Inclusiveness provides for a mix of qualities and resources amongst participants, allowing for the combination and mutual adjustment of interests. Participation in standard setting by such diverse groups also appears to build trust and enhance common expectations and understandings, as well as allowing for a certain degree of consensus.⁶³ A further need for power distribution to prevent any party from becoming dominant in the general regulatory space has also been identified. Returning to forest certification, there are examples of controversies between the FSC and its competitor PEFC where demands for inclusiveness have come into conflict with industrial interests over control of standards setting.⁶⁴ Certification may have increased the breadth of participants in forest policy arena, but questions have been raised as to whether industry-based programmes, in contrast to NGO-driven programmes, have balanced participation; although they have accepted it in principle, participation in terms of interest representation is tightly controlled.⁶⁵

Consequently, certification systems make use of a use a range of criteria to demonstrate legitimacy. Aspects identified include credibility, comprehensiveness, objectivity and measurability, reliability, independence, voluntarism, equality, acceptability, adaptability, cost-effectiveness, transparency, practicality and applicability.⁶⁶ There are also various methods for quantifying the legitimacy of governance between competing programmes.⁶⁷ The World Bank serves as a case in point. It has developed its own principles for what it refers to

as “acceptable” forest certification, requiring “meaningful participation” in standards setting and fair, transparent, independent, and conflict-of-interest-free decision making procedures.⁶⁸ Given this range of approaches, there has been some recognition within the sector of the competitive nature of these different systems of evaluation. There have been various attempts to reconcile the differences between schemes by developing frameworks and thresholds to assess the legitimacy of competing systems, but these have yet to gain universal acceptance.⁶⁹ Forest governance scholars have also, probably inadvertently, contributed to the problem by also making use of various sets of criteria in their evaluations of quality of governance.⁷⁰ So too have civil society organisations.⁷¹ As a result, determining the quality of forest governance presents a problem for scholars, public interests and institutions alike.

Part II

Analytical Synthesis and Framework for Evaluating Governance Quality

Governance has been identified as a particularly useful concept for travelling across a range of political systems and differentiating between them. But the observation has also been made that there are problems with developing normative theories.⁷² The first of these concerns the lack of a consistent typological approach to categorising contemporary global governance. Secondly, given the different understanding of quality of governance and whence legitimacy is derived, the arrangements that underpin it as well as the lack of a consistent approach to evaluating ‘good’ governance also present analytical problems.

This section seeks to address these problems, and presents an analytical framework upon which the four case studies that follow can be evaluated and

compared. It describes a theoretical approach to solving the ‘problem’ of legitimacy, its relationship to quality of global governance, and how to determine, or evaluate, quality. Here, it is argued that legitimacy of global governance is understood institutionally in terms of structure, process, outputs and outcomes, and it is the degree of interaction between these elements, which determines quality of governance. Each of the governance arrangements linked to legitimacy (such as accountability and transparency) are located hierarchically within an assessment framework based upon PC&I. The relationship of these PC&I to the structure and process of governance is explained diagrammatically. An evaluative matrix for rating institutional performance based upon these PC&I, is also presented.

Classifying Governance

Beyond the recognition that there is something ‘new’ about contemporary governance, there has been little else to hold all the discrete definitions together. This has led to calls “to frame a typology that sorts out and juxtaposes the diverse horizontal and hierarchical actors and processes through which authority is exercised.”⁷³ Various scholars have risen to this challenge over the past decade or so, but this has resulted in a number of conflicting governance typologies, depending on the discipline, and date, in which they were written. As time has passed and the impacts of the growth of governance have been absorbed by previously discrete fields, it is now possible to see an increasing degree of convergence, although differences remain.⁷⁴ As a result attempts have made to identify and place the major concepts of governance within a broader analytical framework as a means of organising the literature (see Table 3.2 below).⁷⁵

Table 3.2 Three typologies of governance 1997-2006

<i>Public Policy</i>	<i>Form</i>	<i>International Relations</i>	<i>Form</i>	<i>'Analytic' (Arts)</i>	<i>Form</i>
Centralised	Government has control	Top-down	Traditional governmental & inter-governmental relations (including business)	Old	State-steered (top-down, command-control)
Minimal state	Less government, more privatisation	Bottom-up	Informal civil society initiatives	New	New modes (self-regulation, etc. - public-private)
Corporate	Directed and controlled by companies	Market	Multiple players using formal & informal market-based mechanisms	All	New and old mechanisms for procuring public goods (public, private & mixed)
New public management (NPM)	Private sector practices in the public sector	Network	Formal state, civil society, business alliances	Normative	Programmes to renew management (good governance, new public management & corporate governance -- public & private)
'Good'	Practices of NPM and liberal democratic values	Side-by-side	Informal cooperative arrangements between state & non-state		
Socio-cybernetic	Social-political interaction	Mobius-web	Intricate, overlapping mixed arrangements ("end-state" of contemporary governance)		
Self-organising networks	Inter-dependent actors/ agencies delivering services				

Sources: Rhodes (1997), Rosenau (2003), Arts (2006)

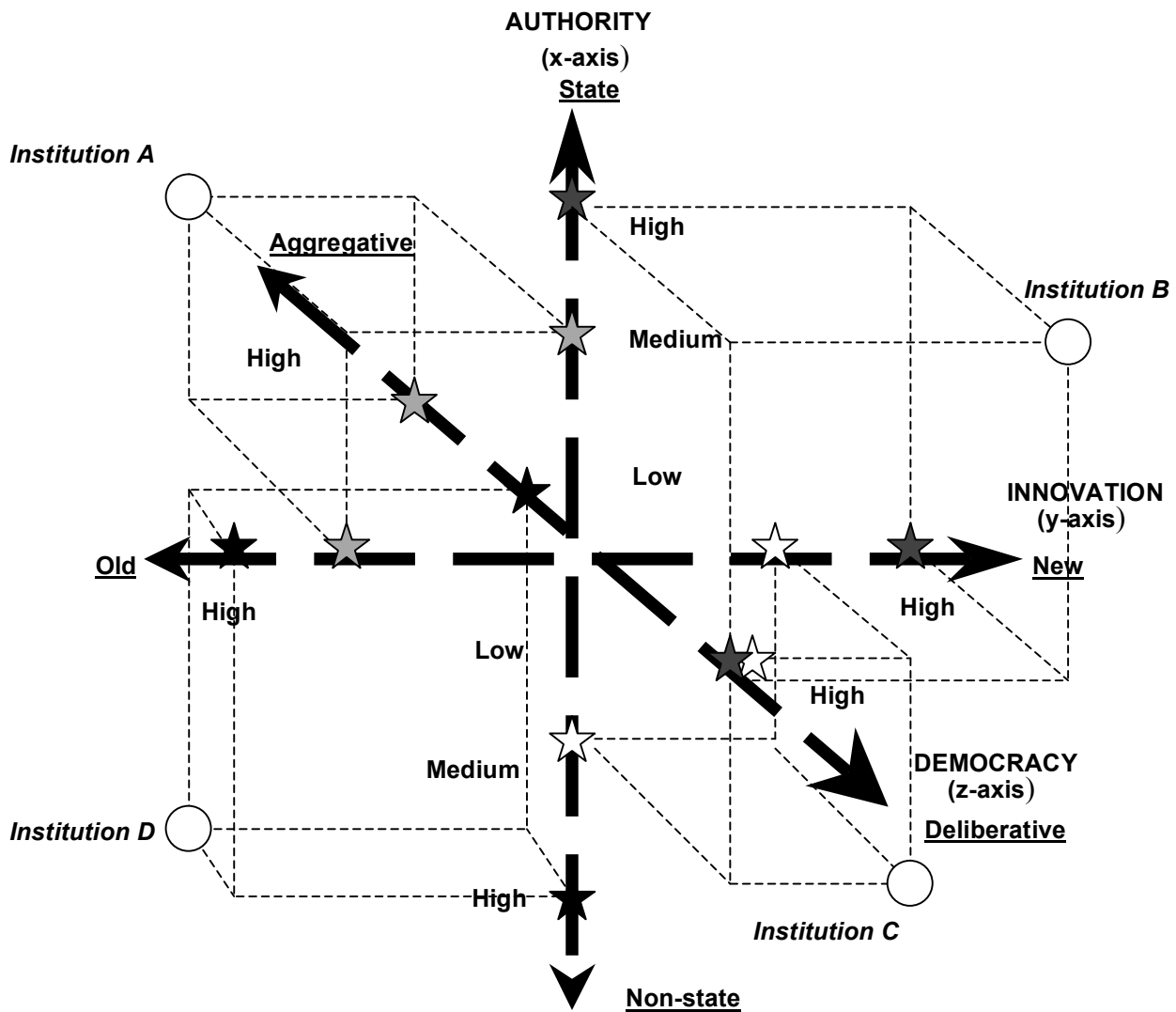
Arts presents the most concise typology, since he provides way of looking at contemporary governance that more efficiently captures the essence of the differences between 'old' governance (purely state-centric) and the gradations associated with 'new' models (state and/or non-state, non-state and hybrid), as

well as recognising the increasing integration between previously discrete schools of thought.⁷⁶ This is a useful contribution to distinguishing between different forms of governance, but it is essentially one-dimensional, and only reinforces the divide between governance types.⁷⁷

Given that each type confronts -- and is affected -- by similar globalising forces, it is worth looking at some of the common themes that impact upon all types of contemporary governance, to see whether these themes can be used as a basis for a more integrated approach. In the survey of the literature undertaken in Chapter Two and above, three major factors in particular stand out amongst the many issues affecting the practice of global governance, and the institutions in which it is expressed. The first of these is that in addition to a shift in locality away from the nation state to multiple sites, the nature of contemporary *authority*, or sovereignty, has also changed. Authority may be located within national governments, but, given the nature of global social and economic transactions, it may also be vested in non-state agents, from corporations (or alternatively formulated, the private sector) to NGOs (or civil society), and multilateral organisations such as the WTO and IMF and so forth; even traditional notions of public and private are no longer clear-cut. Here, the old state-centric exercise of authority, and the new power of non-state organisations exist on two ends of a continuum. The second and related theme, given the erosion of the role of the nation-state as the sole sphere of authority, regardless of its continuing existence and contribution to global politics, is the discussion across the literature about the practice of *democracy* in a globalised world. In the old world, democracy is characterised by territorially located, political parties; in the new, non-territorial sectors, consisting of groups such as civil society and business, engage one with

another in a much more cooperative set of arrangements, where collaboration is central to rule-making. Here, deliberation is to be contrasted with the other democratic end of the continuum, where interests are aggregated and compete with each other. Thirdly, within governance theory itself, the discussion is also about the ‘old’ and the ‘new’, which is made more complicated by the fact that it is easier to distinguish between ‘old’ than the many and varied ‘new’ governance types.⁷⁸ In practice, divergent forms of governance also appear alongside each other in the global policy arena. This is demonstrated, for example, by the existence of intergovernmental multilateral environmental agreements, exemplified by UNFF, alongside non-state market driven instruments, such as the Forest Stewardship Council.⁷⁹ Consequently, *innovation* provides a third benchmark against which contemporary environmental governance is to be understood. Rather than presenting global governance as existing only within rigid definitional sets, it would be better to conceive it as a dynamic interplay between the factors influencing institutional expression. These three factors are therefore interpreted here as influencing the type of governance expressed in a given institution. Each institution will also sit in different places along the continuum in relation to each of these factors. This interplay can be expressed conceptually by way of a three-dimensional attribute space. By allocating some form of simple rating system (for example, low, medium and high) on both ends of the continuum, it is also possible, on the basis of empirical data, to determine the extent to which these themes are expressed in existing institutions, and to plot those institutions in three dimensions (see Figure 3.1 below).⁸⁰

Figure 3.1 Framework of analysis for four hypothetical governance institutions



KEY

- ★ **Institution A** Authority - state (medium); Democracy - aggregative (medium); Innovation - old (medium)
- ★ **Institution B** Authority - state (high); Democracy - deliberative (medium); Innovation - new (high)
- ★ **Institution C** Authority - non-state (medium); Democracy - deliberative (medium); Innovation - new (medium)
- ★ **Institution D** Authority - non-state (high); Democracy - aggregative (low); Innovation - old (high)

Sources: adapted from Koenig-Archibugi (2006), Reuben (2003).⁸¹

This also has the advantage of being able to locate multiple institutions in the one attribute space model for the purposes of comparative analysis, as Chapter Eight demonstrates.

As the discussions above have indicated, there is a considerable variety in the governance systems utilised by environmental institutions at the global level. The approach to classification adopted here provides a means of locating various institutions in relation to one another, not by their specific institutional type, but rather by three of the most significant forces at play on all systems of governance at the global level. In terms of this study, four very different models of forest governance have been selected, ranging from the intergovernmental (UNFF) to varying sub-types of 'private' governance (FSC, ISO, PEFC). Each of them varies in terms of the degree of innovation in governance, source of authority and democratic modality. Understanding these variations -- most notably, given the emphasis of this study, democracy -- will assist in determining whether there is a link between these broad institutional factors and quality of governance.

Quality of Governance

Summary

This section describes a theoretical approach to solving, the 'problem' of legitimacy, its relationship to quality of global (forest) governance, and how to determine, or evaluate, institutional performance. Here, it is argued that legitimacy of global governance is understood institutionally in terms of structure, process, outputs and outcomes, and it is the degree of interaction between these elements that determines quality of governance. Each of the governance arrangements linked to legitimacy (such as accountability and transparency) are located hierarchically within an assessment framework of PC&I. The actual relationship of these PC&I to the structure and process of governance is explained diagrammatically. An evaluative matrix, based upon these PC&I and related also to their institutional expression, is also presented.

Discussion

In the governance literature it is possible to discern an interest in coming to grips with the structures and processes that underpin contemporary environmental governance. This emerges relatively early in the material, with a clear distinction made between governing, understood as a process of coordination, steering, influencing or ‘balancing’ social-political interactions; and governance, interpreted as the structure that emerges in a social-political system as result of interaction.⁸² This idea re-emerges subsequently in terms of ‘governance as structure’, understood as the models utilised by various institutions (and repeating some of the debates surrounding typologies of governance), and ‘governance as process’, again referring to the idea of steering or coordinating.⁸³

Elaborating further on structure and process, it is also clear from the literature that the structures of contemporary governance are understood as being more participative in nature, in that they include more actors than the traditional state-bureaucracy model. Secondly, the processes through which decisions are made -- recognising the broader participation of a range of actors -- are more discursive in nature, requiring more deliberation than models oriented around command and control. The interaction between structure and process as a whole could be interpreted as comprising the ‘co’ arrangements referred to in the previous chapter, and relates to participation within an institution’s structure and deliberation via its processes, which together describe the nature of collaboration in ‘new’ governance.

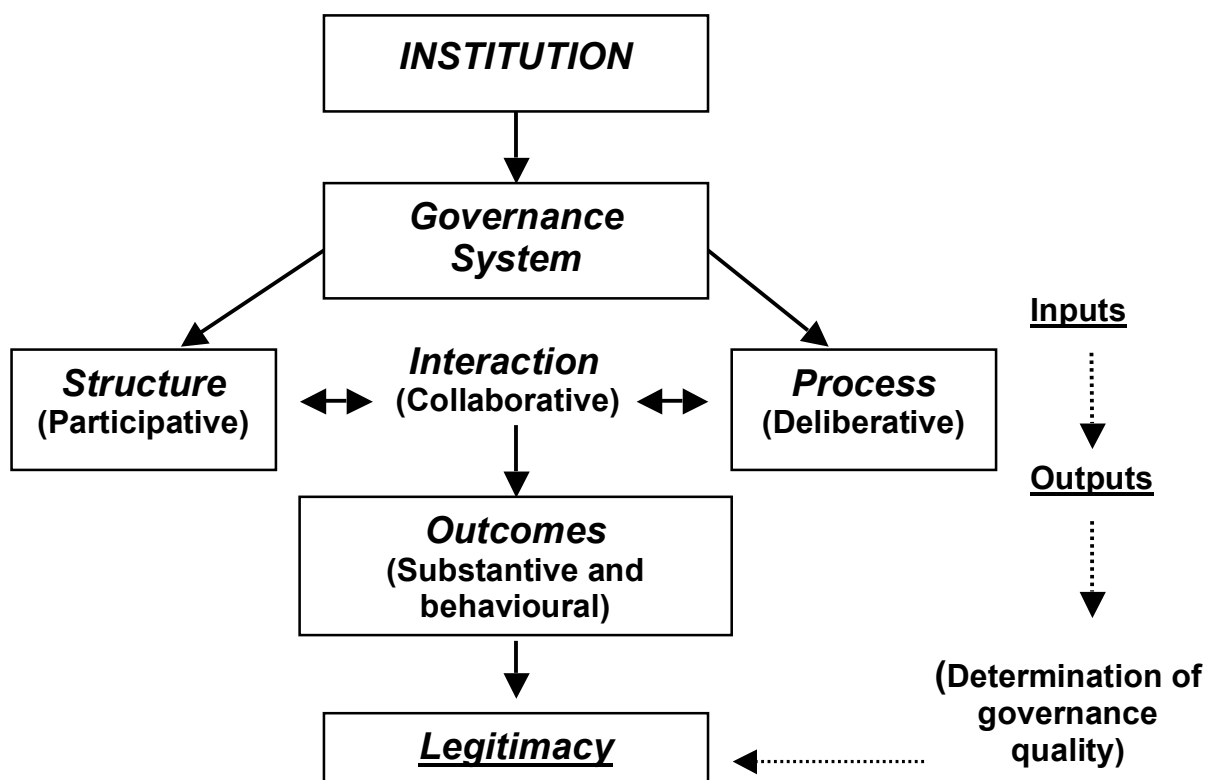
It is this interaction that results in substantive outcomes, such as the formulation of criteria, or setting of standards.⁸⁴ Structure, process and substantive outcomes are seen as interrelated components necessary for the solving of

problems within contemporary governance.⁸⁵ Together, they have been identified as the key determinants of ‘governability’, defined as “the total quality of a social-political system to govern itself within the context of broader systems of which it is a part.”⁸⁶ But, even if quality of governance is conceived of in these terms, it is nevertheless still necessary to address the problem of legitimacy in contemporary theory, since there is disagreement between governance theorists as to whence legitimacy is derived. Scholars with a more international relations perspective have previously viewed legitimacy in terms of both outputs (equated to efficiency, or effectiveness) and inputs (equated to democracy, or alternatively in more recent studies, interest representation, and accountability and transparency). Those studying public administration and public policy have tended to focus largely on output legitimacy, whilst those in the field of comparative politics have followed two schools of thought, depending on whether their focus is on democracy (in which case they favour input legitimacy) or efficiency, in which case they concentrate on output legitimacy.⁸⁷ Whatever the scholarly perspective, the interrelationship between structure, process, outputs and outcomes is clear, and may be conveniently married to both input and output legitimacy, since input legitimacy concerns itself with the structures and processes of governance, whilst output legitimacy is more interested in outcomes.

However, given the nature of contemporary governance emphasised in the literature, “a more sociological notion of legitimacy” is also required.⁸⁸ Quality of governance in this context should therefore be understood as the interrelationship between structure, process and outcomes, expressed in the observation that “the more ‘balanced’ these elements, the more ‘governable’ is the system.”⁸⁹ Bearing

this in mind, this interrelationship can be expressed figuratively (see Figure 3.2 below).

Figure 3.2 Conceptual model of contemporary global governance



Evaluating Governance Quality

Once the relationship between structure, process and outcomes is understood, there remain a number of problems confronting the development of a method for evaluating quality of governance. Firstly, although a wide range of scholars have commented at length on the various attributes of ‘good’ governance, they have generally not examined the nature of the relationship between those arrangements as a whole, since they have tended to focus on individual attributes (the most notable being accountability), or groups of attributes according to particular areas of policy (such as forest certification), or institutional focus (such as the European Union or the World Bank). Secondly, the literature as it exists is contradictory as to how these governance arrangements are expressed institutionally. Lastly, and

as a consequence of the first two problems, there is at present no simple matrix for evaluating governance quality. This section offers three analytical tools to address these problems.

Firstly, for the purposes of understanding the nature of the relationship between the various governance arrangements a consistent hierarchical framework of PC&I relating to governance quality is presented here.⁹⁰ The intention behind the placement of these attributes within such a framework is to ensure that they are located at the right level, to allow for a top-down analysis of principles via criteria and subsequently to indicators. Consistency in this context relates to the correct location within the framework: it is important that parameters are placed at the appropriate level and do not overlap or duplicate those at another, and are linked back to the appropriate parameter at a higher level. Such PC&I provide the means for reporting on the actual performance of each of the case studies explored subsequently.

At the principle level, given the understanding of governance within the literature in terms of structure and process, and the argument advanced here that the total quality of a governance system relates to the interaction between structure, process and outcomes, these elements constitute the basis for a set of related principles. In this context, a principle is defined as a fundamental rule, which serves as a basis for reasoning, the objective of which reasoning is to ascertain the function of the total system in respect to explicit elements of governance. A principle can also express a certain perspective regarding a specific aspect of the system as it interacts, in this context, with the overall governance system.⁹¹ Figure 3.1 has identified ‘participation as structure’ and ‘deliberation as process’, both of which contribute to the substantive outcomes, or

products, of the system. The analysis, which follows, consequently looks at the governance arrangements discussed above in terms of their relationship to either structure or process. Here the perspective, or attitude, adopted regarding participation as the fundamental structural aspect of governance is that it should be *meaningful*. This term is frequently associated with participation in much of the literature, and serves here as a normative, qualitative descriptor.⁹² The second principle, referring to the deliberative, procedural, aspects of governance, has been ascribed the term *productive* as its descriptor.⁹³ In this context the principle is more than a statement about the democratic legitimacy of a process, as it refers both to the quality of deliberations, as they occur within the system, as well as the quality of the outcomes, or products, of those deliberations. This specific analytical approach is discussed further in the context of Figure 3.3 below.

Criteria are parameters functioning at the next level below principles, and demonstrate compliance with them in relation to specific aspects or states of the system. They are intended to facilitate the assessment of principles that would otherwise be ideational and non-measurable.⁹⁴ A criterion can also be described as “a category of conditions or processes” against which, a system can be assessed.⁹⁵ Criteria are themselves not usually capable of being measured directly, however, but are formulated to provide a determination on the degree of compliance.⁹⁶ They are consequently linked to indicators, which are hierarchically lower, and which represent quantitative or qualitative parameters, and do describe conditions indicative of the state of the governance system as they relate to the relevant criterion.⁹⁷

Any discussion regarding the criteria associated with the principles of meaningful participation and productive deliberation therefore occurs

simultaneously with their associated indicators. In this study, the structural principle of meaningful participation is demonstrated through two criteria, *interest representation* and *organisational responsibility*. In the discussion of the governance literature presented above interest representation has been linked to three elements of governance, which function on the indicator level: *inclusiveness*, demonstrating who participates in a governance system; *equality*, indicating the nature of the relationship between participants; and *resources*, referring to the economic, technical or institutional capacity of a participant to represent their interests within the system. The second criterion, *organisational responsibility* is comprised of two indicators, *accountability* and *transparency*, which are usually treated together in the literature, and refer to the extent to which the behaviour of participating organisations can be both called to account both inside the institution and externally by the public at large, as well as being visible, or open, to scrutiny by other actors within the institution, and beyond.

The procedural principle of productive deliberation is demonstrated through two criteria, *decision making* and *implementation*. Three indicators are linked to decision making: *democracy*, not referring to a specific mode of democracy, but rather the extent to which a system can be deemed to be functioning democratically; *agreement*, referring to the method in which decisions are reached, such as voting, or consensus; and *dispute settlement*, indicating the system's capacity to manage conflict when there is no agreement, or there are challenges to decisions made. Three indicators are linked to implementation: *behaviour change*, used to determine whether the implementation of agreements, or substantive outcomes results in changed behaviour regarding the problem that the system was created to address (in the case of this study, forest management);

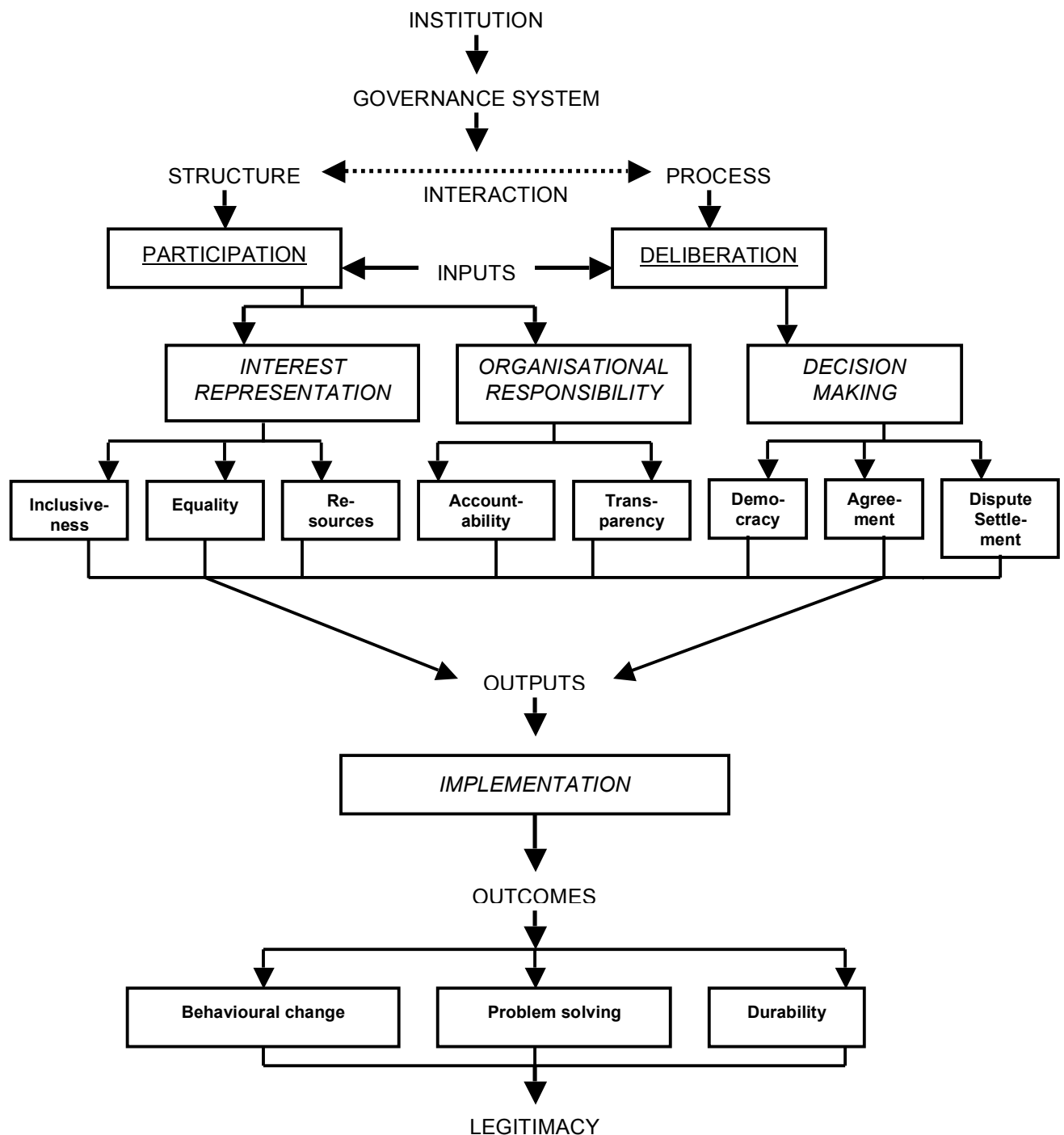
problem solving, referring to the extent to which the system has solved the problem it was created to address (understood broadly in this study as unsustainable forest management); and *durability*, capturing the two related elements of adaptability and flexibility, as well as longevity. Table 3.3 below sets out the hierarchical relationship between these PC&I.

Table 3.3 Hierarchical framework for the assessment of governance quality

<u>Principle</u>	<i>Criterion</i>	Indicator
<u>“Meaningful participation”</u>	<i>Interest representation</i>	Inclusiveness
		Equality
		Resources
	<i>Organisational responsibility</i>	Accountability
		Transparency
<u>“Productive deliberation”</u>	<i>Decision making</i>	Democracy
		Agreement
		Dispute settlement
	<i>Implementation</i>	Behavioural change
		Problem solving
		Durability

It should be noted that the PC&I method of evaluation suggested here, and derived from the forest management literature, is not without its critics in the field of environmental science. Indicators in particular have been labelled a “pathological corruption of the reductionist approach” resulting in a shadow world based on voodoo science.⁹⁸ This has led to the conclusion that they are best used in a controlled manner to account for the critical dimensions of a system, and only in conjunction with other simultaneous views.⁹⁹ With these observations in mind, the second tool, designed to locate these P, C, & I within their institutional context, is presented here (see Figure 3.3 above). In this representation implementation is to be conceived in terms of the interaction between structure and process, which have delivered the outcomes in need of implementation.

Figure 3.3 Institutional model of governance quality



Boxed typeface indicates hierarchical relationship at the PRINCIPLE, *CRITERION* and **Indicator** levels.

This model therefore differs from the hierarchical framework presented in Table 3.3. This differences arises from the attempt to understand governance from an

alternative, but simultaneous viewpoint, which takes a greater account of the complexity of the interactions within the system.¹⁰⁰

Thirdly, and finally, it remains for these concepts to be located within a framework for evaluation. Table 3.4 below presents an evaluative matrix against which each of the institutions examined in the following case studies can be scored.

Table 3.4 Evaluative matrix of governance quality

<u>Principle</u>	<u>1. Meaningful Participation</u>					
<i>Criterion</i>	<i>1. Interest representation</i> Highest possible score: 9 Lowest possible score: 3			<i>2. Organisational responsibility</i> Highest possible score: 6 Lowest possible score: 2		Sub-total (out of 15):
Indicator	Inclusiveness	Equality	Resources	Accountability	Transparency	
High	3	3	3	3	3	
Medium	2	2	2	2	2	
Low	1	1	1	1	1	
<u>Principle</u>	<u>2. Productive deliberation</u>					
<i>Criterion</i>	<i>3. Decision making</i> Highest possible score: 9 Lowest possible score: 3			<i>4. Implementation</i> Highest possible score: 9 Lowest possible score: 3		Sub-total (out of 18):
Indicator	Democracy	Agreement	Dispute settlement	Behavioural change	Problem solving	Durability
High	3	3	3	3	3	3
Medium	2	2	2	2	2	2
Low	1	1	1	1	1	1
Total (out of 33)						
						Final Score:

Performance is evaluated at the indicator level, and ranked low, medium and high.

For the purposes of comparative analysis, performance is also recorded in numerical terms (from one to three points) with a reference value, or norm, of 2 (or ‘medium’ rating).¹⁰¹ Following the hierarchical assessment framework of PC&I, the cumulative values of the relevant individual indicators demonstrate the

degree of fulfilment at the criterion level; these criteria in turn form the cumulative basis for determining compliance at the principle level; at both the criterion and principle levels a conventional pass/fail target value of 50% has been used to determine performance.¹⁰²

A question has also arisen in similar studies of global governance as to whether qualitative data -- the method used here -- can be applied to develop quantitative results.¹⁰³ Warnings have also been given that conversion of verbal (low, medium, high) into numerical descriptions can lead to “judgments... concealed behind the illusionary authority of a number, and its pretensions to scientific precision.”¹⁰⁴ There can also be further problems when indicators are weighted differently, or when individual results are combined to provide aggregated scores.¹⁰⁵ In the case of the former, there has been no differentiation in the values of any indicator in this study, but there has been aggregation of scores at the indicator level to produce results at both the criterion and principle level. This can lead to a situation where a system scores poorly in one indicator, only to meet the threshold at the criterion level, or fails to meet the criterion level threshold, whilst still meeting requirements at a principle level. This is recognised as a potential distortion of the results, and it is accepted that precision in such a qualitative study is not always possible. However, the intention behind using three discrete sources of information for each case study (primary and secondary sources and interviews) is intended to partially address the issue by providing for a ‘triangulated’ critical analysis, not reliant on a single source.¹⁰⁶

Conclusions

Governance has been presented as the primary means by which social and political interaction can be understood in the global context of state, society, and,

given the emphasis in the case studies that follow, the market. In this environment, all actors are continuously interacting with one another in modes of governing in which communication, and learning, are recognised as essential components in dealing with the complex and diverse dynamics of the contemporary world. There is now a growing recognition of the importance of:

[S]ocial-political governing processes (and structures) that take both interactions and actors seriously. Interactions shape actors and actors shape interactions as well. They are ‘equal’ as basic units of analysis and theory development.¹⁰⁷

This is an important observation, since it grounds theory and practice within the normative assumption that structures and processes are fundamental to understanding the quality of interactions between participants in contemporary governance.

This understanding has taken some time to eventuate, however, and the observation could be made that even in the case of Kooiman, quoted here, the sophistication of this understanding has evolved over the past two decades or so. And yet concurrently, governance theory has directly affected practice, not merely in terms of retrospective analysis, but in shaping the strategic directions followed by various institutions. This is exemplified by the policy emphasis regarding governance practice adopted by the EU for example, and typified by its White Paper on governance, or The World Bank and its expectations of ‘good’ governance inside developing nations.¹⁰⁸ This has meant that governance theory has informed practice, and vice-versa. This is particularly apparent in forest governance.

The systems that have arisen in this context therefore cover the whole gamut, from the old ‘top-down’ models, to the various new ‘co-’ arrangements (such as the network model of governance). But at the same time as governance has

evolved, the contribution of some of its key attributes to institutional quality and legitimacy has been overlooked, or only partially addressed. This has led to a wide range of institutional expressions, and inconsistencies between institutions. This is not necessarily a problem, as it is unlikely that any single approach will suit the highly complex nature of these times. But it does raise questions as to how democracy functions in such contexts. In such circumstances the application of a range of ideas from several traditions may prove useful.¹⁰⁹ The analytical framework presented here has therefore taken concepts from a variety of disciplines in order to better understand the relationship between quality of governance and institutional expression. In the five chapters that follow, the dynamic interplay between the actors participating in global governance is explored within a range of systems that function within different social, political, institutional, and democratic settings. The nature of the interactions between these actors and these contexts forms the basis of determining the quality of governance, and ultimately, the legitimacy, of each of the systems investigated.

Endnotes

¹ Bas Arts, “Non-state Actors in Global Environmental Governance: New Arrangements Beyond the State” in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness*, ed. Mathias Koenig-Archibugi and Michael Zürn (London: Palgrave Macmillan, 2006), pp. 177-199 at p. 178.

² Peter Glück, Jeremy Rayner, Benjamin Cashore, Arun Agrawal, Steven Bernstein, Doris Capistrano, Karl Hogl, Bernd-Markus Liss, Connie McDermott, Jagmohan S. Maini, Tapani Oksanen, Pekka Ollonqvist, Helga Pülzl, Rwald Rametsteiner and Werner Pleschberger, “Changes in the Governance of Forest Resources”, in *Forests in the Global Balance* ed. G. Mery, R. Alfaro, M. Kaninnen, and M. Lobovikov (Helsinki: IUFRO, 2005), pp. 51-74, at pp. 55-64.

³ Christine Overdevest, “Codes of Conduct and Standard Setting in the Forest Sector: Constructing Markets for democracy?” *Relations Industrielles/Industrial Relations* 59 (1)(2004) pp. 172-197 at p. 192.

⁴ Norah A. Mackendrick, “The Role of the State in Voluntary Environmental Reform: A Case Study of Public Land”, *Policy Sciences* 38 (2005), pp. 21-44 at p. 22).

⁵ Philipp H. Pattberg, “The Forest Stewardship Council: Risk and Potential of Private Forest Governance”, *The Journal of Environment and Development* 14 (3) (2005), pp. 356-374 at pp. 358-361.

⁶ David Humphreys, *Forest Politics: The Evolution of International Cooperation* (London: Earthscan, 1996), pp. 2-15.

⁷ Humphreys, *Forest Politics*, pp. 5-7.

⁸ Humphreys, *Forest Politics*, p. 18-19, Christopher Elliott, *Forest Certification: A Policy Perspective* (Bogor: Center for International Forestry Research, 2000), pp. 43-49, Margaret E. Keck and Kathryn Sikkink in *Activists Beyond Borders: Advocacy Networks in International Politics* (New York: Cornell University Press, 1998), pp. 150-152, Saskia Ozinga, *Behind the Logo: An Environmental and Social Assessment of Forest Certification schemes* (Moreton-in-Marsh: Fern, 2001), p. 13.

⁹ Margaret E. Keck and Kathryn Sikkink in *Activists Beyond Borders: Advocacy Networks in International Politics* (New York: Cornell University Press, 1998), pp. 155-156.

¹⁰ Keck and Sikkink, *Activists Beyond Borders*, p. 154.

¹¹ Fred Gale, *The Tropical Timber Trade Regime* (Basingstoke: Macmillan Press, 1998), pp. 159-161, Elliott, *Forest Certification*, pp. 45-46, Humphreys, *Forest Politics*, pp. 61-66, Keck and Sikkink *Activists Beyond Borders*, pp. 155-156.

¹² Keck and Sikkink, *Activists Beyond Borders*, p. 153.

¹³ Keck and Sikkink, *Activists Beyond Borders*, p. 153.

¹⁴ Humphreys, *Forest Politics*, pp. 55-57. See also David Humphreys, *Logjam: Deforestation and the Crisis of Global Governance* (London: Earthscan, 2006), p. 162. A new Agreement was negotiated in 2006, and when brought into effect will replace the 1994 Agreement. It is designed to more comprehensively address illegal forest activities than the original Agreement, which referred only to “undocumented trade”. However, a number of countries including Brazil, India and China, part of the so-called Amazonian Pact countries, began indicating their opposition to the comprehensive language relating to illegal logging in the document at UNFF 6 (ibid).

¹⁵ Humphreys, *Forest Politics*, pp. 33-34.

¹⁶ Humphreys, *Forest Politics*, p. 167.

¹⁷ Chris Tollefson, Fred Gale and David Haley, *Setting the Standard: Certification, Governance and the Forest Stewardship Council* (Vancouver: UBC Press, 2008), p. 25.

¹⁸ David Humphreys, “The Certification Wars: Forest Certification Schemes as Sites for Trade-environment Conflicts”, paper presented to the Privatizing Environmental Governance panel 46th annual convention of the International Studies Association Honolulu, Hawaii 1-5 March 2005, 45 pp., at p. 4. There was some reaction to increasing NGO concerns regarding tropical deforestation within ITTO. In the same year it commissioned the International Institute for Environment and Development (IIED) to prepare a report, which found less than 1% of the global timber trade to be from sustainable sources. This report was to encourage both NGOs and the ITTO membership to look more closely at promoting sustainable forest management (Humphreys, *Forest Politics*, pp. 66-74).

¹⁹ Humphreys, *Forest Politics*, pp. 66-74. This competition originates from the consuming public’s scepticism over the validity of claims made by ‘self-certifying’ individual companies, and the need for arm’s length approaches. Governments’ closeness to business interests, it is argued, resulted in weak measures, and civil society groups consequently entered the certification market (Fred Gale and Cheri Burda, “The Pitfalls and Potential of Eco-certification as a Market Incentive for Sustainable Forest Management” in *The Wealth of Forests: Markets, Regulation, and Sustainable Forestry* ed. Chris Tollefson (Vancouver: University of British Columbia Press, 1997) p. 280).

²⁰ Bas Arts, “Non-state Actors in Global Governance”, p. 190; Kelly Kollman and Aseem Prakash, “EMS-based Environmental Regimes as Club Goods: Examining Variations in Firm-level Adoption of ISO 14001 and EMAS in U.K., U.S. and Germany”, *Policy Sciences* 35 (2002), pp. 43-67 at p. 49. In a slightly alternative analysis, it has been argued that the environmental management standard (EMS) approach was influenced by the thinking of scholars in the late 1980s, that pollution essentially represented resource wastage, making pollution control a matter of quality assurance (Matthew Potoski and Aseem Prakash, “Regulatory Convergence in

Nongovernmental Regimes? Cross-National Adoption of ISO 14001 Certifications” *The Journal of Politics* 66 (3) (2004), pp. 885-905 at p. 888, citing Michael E. Porter, “America’s Green Strategy”, *Scientific American* 264 (4) (1991), p. 168.

²¹ Jennifer Clapp, “Global Environmental Governance for Corporate Responsibility and Accountability”, *Global Environmental Politics* 5 (3) (2005), pp. 23-34 at p. 25.

²² Ibid, footnote 14, citing Pratap Chatterjee and Matthias Finger, *The Earth Brokers: Power Politics and World Development* (London: Routledge, 1994) and Matthias Finger and James Kilcoyne, “Why Transnational Corporations are Organizing to ‘Save the Global Environment’”, *The Ecologist* 27 (4) (1997).

²³ Jennifer Clapp, “Standard Inequities” in *Voluntary Initiatives: The New Politics of Corporate Greening*, ed. Robert B. Gibson (Ontario: Broadview Press, 1999), p. 199 and footnotes 3 and 4, p. 208 (referring to *Agenda 21*, Chapter 30, paragraph 30.8 and Chapter 20, paragraphs 20.11, 20.13 and 20.9).

²⁴ Dick Hortensius, “ISO 14000 and Forestry Management: ISO Develops ‘Bridging’ Document”, *ISO 9000-ISO 14000 NEWS* 4 (1999), pp. 11-20, at p. 14.

²⁵ Steven Bernstein and Benjamin Cashore, “Non-state Global Governance: is Forest Certification a Legitimate Alternative to a Global Forest Convention?” in *Hard Choices, Soft Law: Combining Trade, Environment and Social Cohesion in Global Governance* ed. John Kirton and Michael Trebilock (Aldershot: Ashgate Press, 2004), pp. 33-64, at p. 39; Benjamin Cashore, Graeme Auld and Deanna Newsom, *Governing Through Markets: Forest Certification and the Emergence of Non-State Authority* (New Haven and London: Yale University Press, 2004) pp. 11-12; Lars H. Gulbrandsen, “Overlapping Public and Private Governance: Can Forest Certification Fill the Gap?”, *Global Environmental Politics* 4 (2) (2004) pp. 75-99 at p. 76; Pattberg, “The Forest Stewardship Council”, p. 361.

²⁶ Keck and Sikkink, *Activists Beyond Borders* p. 160.

²⁷ Department of Economic and Social Affairs/Secretariat of the United Nations Forum on Forests, “United Nation Forum on Forests. Global Partnership: For Forests For People”, Fact Sheet 1 (2004), <http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04.

²⁸ <http://www.un.org/esa/forests/faq.html>, accessed 15/03/07.

²⁹ <http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04.

³⁰ Resolution 2000/35, ECOSOC, “Report of the Fourth Session of the Intergovernmental Forum on Forests,” 18 October 2000, <http://www.un.org/documents/ecosoc/dec/2000/edec2000-inf2-add3.pdf>, accessed 15/03/03.

³¹ Humphreys, *Logjam*, p. 215.

³² Humphreys identifies nine separate proposals for a global forest initiative between January and December of 1990. He presents the Food and Agriculture Organisation’s “Possible Main Elements of an Instrument (Convention, Agreement, Protocol, Charter) for the Conservation and

Development of the World's Forests" as a major contender that was ultimately eclipsed by the UNCED process itself, although some of its language reappeared in the UNCED document, "Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests" (*Forest Politics* pp. 83-88). Brook Boyer attributes Swedish Prime Minister Ola Ulstein as first putting forward the proposal "in response to the failure of existing international forest protection programmes" ("Multilateral Negotiation Simulation Exercise: The Sustainable Management and Conservation of Forests" *International Environmental Law-making and Diplomacy Review 2005* ed. Marko Berglund (Joensuu: University of Joensuu Press, 2005), pp. 299-310 at p. 304).

³³ Glück et al., "Changes in the Governance of Forest Resources", p. 55.

³⁴ David Humphreys, *Logjam: Deforestation and the Crisis of Global Governance* (London: Earthscan, 2006), p. 190.

³⁵ Glück et al., "Changes in the Governance of Forest Resources", pp. 51-74.

³⁶ Bernstein and Cashore, "Non-state Global Governance", p. 39; Cashore et al, *Governing Through Markets*, pp. 11-12; Gulbrandsen, "Overlapping Public and Private Governance", p. 76; Pattberg, "The Forest Stewardship Council", p. 361.

³⁷ Hortensius, "ISO 14000 and Forestry Management", p. 13.

³⁸ Erik Hysing and Jan Olsson, "Sustainability Through good Advice? Assessing the Governance of Swedish Forest Biodiversity", *Environmental Politics* 14 (4) (2005), pp. 510-526, pp. 521-523.

³⁹ Erik Hysing and Jan Olsson, "Sustainability Through Good Advice" pp. 521-523.

⁴⁰ Erik Hysing and Jan Olsson, "Sustainability Through Good Advice" p. 514,

⁴¹ Cashore et al, *Governing through markets* p. 4.

⁴² Cashore et al, *Governing Through Markets*, pp. 4-11.

⁴³ Cashore et al, *Governing Through Markets*, pp. 28-29.

⁴⁴ They can also determine which schemes to support, and which not. This support might be financial, or symbolic. In the case studies that follow, it is possible to see greater levels of government support for PEFC in such countries as Finland, for example, in comparison to greater support elsewhere for FSC, in the case of Belgium.

⁴⁵ Cashore et al, *Governing Through Markets*, pp. 22-23.

⁴⁶ Cashore et al, *Governing Through Markets*, pp. 27-29.

⁴⁷ Cashore et al, *Governing Through Markets*, pp. 241-243.

⁴⁸ Cashore et al, *Governing Through Markets*, p. 247.

⁴⁹ Errol Meidinger, "The Administrative Law of Global Private-Public Regulation: The Case of Forestry", *The European Journal of International Law* 17 (1) (2006), pp. 47-87 at pp. 30-45.

-
- ⁵⁰ Glück et al., “Changes in the Governance of Forest Resources”, p. 55, citing James G. March and Johan P. Olsen, *Rediscovering Institutions: The Organizational Basis of Politics* (New York: The Free Press, 1989).
- ⁵¹ Elliott, *Forest Certification*, p. 23.
- ⁵² Humphreys, “The Certification Wars” p. 33, and Cashore et al, *Governing Through Markets*, pp. 34-37, following Mark Suchman, “Managing legitimacy: Strategic and institutional approaches”, *Academy of Management Review* 20 (3) (1995), pp 571-610.
- ⁵³ Cashore et al, *Governing Through Markets*, p. 241.
- ⁵⁴ Cashore et al, *Governing Through Markets*, p. 241.
- ⁵⁵ Cashore et al, *Governing Through Markets*, p. 221.
- ⁵⁶ Lars H. Gulbrandsen, “Sustainable Forestry in Sweden: The Effect of Competition Among Private Certification Schemes”, *The Journal of Environmental Development* 14 (3) (2005) pp. 338-355 at p. 349. Cashore et al, following Suchman, identify three types of legitimacy: pragmatic, derived from narrow self-interest; moral, based on ethical values; and cognitive, meaning a given scheme is “understandable”, or taken for granted (*Governing Through Markets*, pp. 34-37, following Mark Suchman, “Managing Legitimacy: Strategic and Institutional Approaches”, *Academy of Management Review* 20 (3) (1995), pp 571-610). Looking at the competition between industry schemes and the FSC, they conclude it is less the type of legitimacy that is significant, but the strategies undertaken to achieve legitimacy (Cashore et al, *Governing Through Markets*, p. 221).
- ⁵⁷ Meidinger “The Administrative Law of Global Private-Public Regulation”, pp. 47-87 at p. 49.
- ⁵⁸ Michael Howlett and Jeremy Rayner, “Globalization and Governance Capacity: Explaining Divergence in National Forest Programs as Instances of ‘Next Generation’ Regulation in Canada and Europe”, *Governance*, 19 (2) (2006), pp. 251-275 at p. 257). They refer to “participatory deliberation”, conflict resolution, inter-sectoral coordination and policy learning as significant constitutive elements of forest governance (ibid).
- ⁵⁹ Meidinger “The Administrative Law of Global Private-Public Regulation”, p. 70.
- ⁶⁰ Kozma Naka, A. L. Hammett and William B. Stuart, “Forest Certification: Stakeholders, Constraints and Effects”, *Local Environment* 4 (5) (2000), pp. 475-481 at pp. 477-478.
- ⁶¹ Gulbrandsen, “Sustainable Forestry in Sweden”, p. 351.
- ⁶² Magnus Boström, “Regulatory Credibility and Authority through Inclusiveness: Standardization Organizations in Cases of Eco-labelling”, *Organization* 13 (3) (2006), pp. 345-367 at p. 345.
- ⁶³ Magnus Boström, “Regulatory Credibility and Authority through Inclusiveness”, pp. 357-358.
- ⁶⁴ Magnus Boström, “Regulatory Credibility and Authority through Inclusiveness”, pp. 357-358.
- ⁶⁵ Meidinger, “The Administrative Law of Global Private-Public Regulation”, pp. 66-83.
- ⁶⁶ Elliott, *Forest Certification*, p. 23.

⁶⁷ Cashore et al, *Governing Through Markets*, pp. 225-247, at p. 227.

⁶⁸ Humphreys, “The Certification Wars”, pp. 34-35.

⁶⁹ Humphreys, *Logjam*, p. 136, referring to forest certification.

⁷⁰ This issue is discussed by Humphreys, *Logjam*, p. 135, citing Fred Gale, “*Caveat Certificatum: The Case of Forest Certification*”, in *Confronting Consumption* ed Thomas Princen, Michael Maniates and Ken Conca (Cambridge MA: MIT Press, 2002), p. 288. Gale, following a criteria-based approach couches his discussions of quality of governance in terms of legitimacy, which is derived from representativity, accountability, transparency, equality and scientificity. He considers the legitimacy of two industry-based forest certification standards, the US Sustainable Forestry Initiative (SFI) and the Canadian Standards Association (CSA) – both now members of PEFC – as low to medium (“*Caveat Certificatum*”, p. 288).

⁷¹ See for example Ozinga, where “balanced participation, transparency, consistency and measurable minimum performance-based standards” are identified (Saskia Ozinga, *Footprints in the Forest: Current Practice and Future Challenges in Forest Certification*, (Moreton-in-Marsh: Fern, 2004) p. 17).

⁷² B. Guy Peters, “Governance and Comparative Politics”, in *Debating Governance: Authority, Steering and Democracy* ed. Jon Pierre (Oxford: Oxford University Press, 2000) pp. 37-51, at pp. 50-51.

⁷³ James Rosenau, *Distant Proximities: Dynamics Beyond Globalization* (Princeton and Oxford: Princeton University Press, 2003), p. 394.

⁷⁴ Between 2000 and 2001 various scholars distinguished between two, three, five, seven and eight different meanings of the concept (Arts, “Non-state Actors in Global Environmental Governance”, p. 179).

⁷⁵ Mathias Koenig-Archibugi, “Introduction”, in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi and Michael Zürn (Basingstoke: Palgrave Macmillan, 2006) pp. 1-30, at pp. 12-15.

⁷⁶ Arts, “Non-state Actors in Global Environmental Governance”, p. 179

⁷⁷ Between 2000 and 2001 various scholars distinguished between two, three, five, seven and eight different meanings of the concept (Arts, “Non-state Actors in Global Environmental Governance”, p. 179).

⁷⁸ Peters, “Governance and Comparative Politics”, pp. 50-51.

⁷⁹ Jordan et al examine the relationship between old and new environmental policy instruments in terms of co-existence, fusion, competition and replacement. Co-existence appears to be the most dominant relationship, although there are examples of fusion and competition; replacement does not yet appear to be apparent, and traditional regulation seems to be remarkably resilient (Andrew Jordan, Rüdiger K. W. Wurzel and Anthony Zito, “The Rise of ‘New’ Policy Instruments in

Comparative Perspectives: Has Governance Eclipsed Government?" *Political Studies* 53 (2005) pp. 492-494).

⁸⁰ Koenig-Archibugi, "Introduction", pp. 15-16, following Paul Lazarsfeld and Allen H. Barton, "Qualitative Measurement in the Social Sciences: Classification, Typologies and Indices" in *The Policy Sciences* ed. D. Lerner and H.D. Laswell (Stanford: Stanford University Press, 1951), pp. 155-192.

⁸¹ William Reuben, "The Role of Civic Engagement and Social Accountability in the Governance Equation", *Social Development Notes* 75 (2003), p. 2.

⁸² Jan Kooiman, "Findings, Speculations and Recommendations", in *Modern Governance: New Government-Society Interactions*, ed. Jan Kooiman (London: SAGE Publications, 1993) pp. 258-259.

⁸³ Jon Pierre and B. Guy Peters, *Governance, Politics and the State* (Macmillan Press: Basingstoke and London, 2000), pp. 14-24.

⁸⁴ Kooiman, "Findings, Speculations and Recommendations", p. 260

⁸⁵ Jan Kooiman, "Social-Political Governance: Introduction" in *Modern Governance: New Government-Society Interactions*, ed. Jan Kooiman (London: SAGE Publications, 1993), pp. 1-8 at p. 5. See also Robert Falkner, "Private Environmental Governance and International Relations: Exploring the links", *Global Environmental Politics* 3(2) (2003) pp. 72-87. For a discussion on the interplay between civil society, globalisation, forest management and governance, see also Gordon M. Hickey and John L. Innes, "Monitoring sustainable forest management in different jurisdictions", *Environmental Monitoring and Assessment* 108 (2005) pp. 241-260. For a detailed investigation of 'new' forest governance, see Glück et al "Changes in the Governance of Forest Resources", pp. 55-64.

⁸⁶ Kooiman, "Findings, Speculations and Recommendations", p. 259.

⁸⁷ Anne Mette Kjaer, *Governance* (Cambridge: Polity Press, 2004) p. 190.

⁸⁸ Bernstein and Cashore, "Nonstate Global Governance", p. 41.

⁸⁹ Jan Kooiman, "Societal Governance: Levels, Models, and Orders of Social-Political Interaction" in *Debating Governance: Authority, Steering and Democracy* ed. Jon Pierre (Oxford: Oxford University Press, 2000), pp. 138-166 at p. 159.

⁹⁰ This approach is adapted from Erik M. Lammerts van Beuren and Esther M. Blom, *Hierarchical Framework For The Formulation Of Sustainable Forest Management Standards* (Leiden: The Tropenbos Foundation, 1997) pp. 5-9.

⁹¹ Lammerts van Beuren and Blom, *Hierarchical Framework*, p. 34.

⁹² This term first appears in the United Nations Declaration on the Right to Development, adopted by General Assembly resolution 41/128 of 4 December 1986 (John Gaventa, "Making Rights Real: Exploring Citizenship, Participation and Accountability", *Journal of International Development Studies* 33 (2) (2002) pp. 1-11).

⁹³ See for example John Dryzek and Valerie Braithwaite, “On the Prospects for Democratic Deliberation: Values Analysis Applied to Australian Politics” *Political Psychology* 21 (2) (200), pp. 241-266.

⁹⁴ Lammerts van Beuren and Blom, *Hierarchical Framework*, p. 20.

⁹⁵ Montréal Process, *Criteria and Indicators for the Conservation and Sustainable Management of Temperate and Boreal Forest Ecosystems*, second edition (Unknown location: Montréal Process, 1999), p. 5.

⁹⁶ Lammerts van Beuren and Blom, *Hierarchical Framework*, pp. 22 and 34.

⁹⁷ Lammerts van Beuren and Blom, *Hierarchical Framework*, p. 22.

⁹⁸ Roger Bradbury, “Are Indicators Yesterday’s News?” in *Tracking Progress: Linking Environment and Economy Through Indicators and Accounting Systems. Conference Papers. 1996 Australian Academy of Science Fenner Conference on the Environment* (Sydney: Institute of Environmental Studies, The University of New South Wales, 1996) reproduced at <http://www.tjurunga.com/biography/roger-papers.html> (accessed 15/09/07), p. 6.

⁹⁹ <http://www.tjurunga.com/biography/roger-papers.html>, p. 7.

¹⁰⁰ <http://www.tjurunga.com/biography/roger-papers.html>, pp. 8-9 (in relation to the climate system, rather than a governance system).

An idea developed late in the creation of this study, and not fully explored here, is that in the model presented in Figure 3.3, the three criteria of interest representation, organisational responsibility and decision making can be understood as being more directly input-related in terms of their contribution to legitimacy than the criterion of implementation. The model therefore allows for an interpretation of the nine input-related indicators associated with the first three criteria as contributing to the quality of implementation. In this case, there is an implication that the extent of behaviour change, problem solving and durability, i.e the more output-dependent indicators of legitimacy, is related to the performance of the governance system at the outcome level. It is interesting to speculate if the performance of FSC regarding these input related criteria, has contributed to its better score, most notably for problem solving, than the other systems. This may be another avenue for research, and again points to the need for comparison with more institutions than the four presented in this study.

¹⁰¹ “A norm is the reference value of the indicator and is established for use as a rule or a basis for comparison. By comparing the norm with the actual measured value, the result demonstrates the degree of fulfilment of a criterion and of compliance with a principle” (Lammerts van Beuren and Blom, *Hierarchical Framework*, p. 24).

¹⁰² “A reference value to strive for is called a **target value**” (Lammerts van Beuren and Blom, *Hierarchical Framework*, p. 24, bold in original).

¹⁰³ Patrizia Nanz and Jens Steff, “Assessing the Democratic Quality of Deliberation in International Governance: Criteria and Research Strategies”, *Acta Politica*, 40 (3) (2005), pp. 368–383, at p. 373.

¹⁰⁴ Ibid, citing David Beetham, Sarah Bracking, Ian Kearton, and Stuart Weir, *International IDEA Handbook on Democracy Assessment* (Den Haag: Kluwer 2002).

¹⁰⁵ Ibid.

¹⁰⁶ Philipp H. Pattberg, “The Forest Stewardship Council”, p. 365, following T. A. Schwandt, *Qualitative Inquiry: A Dictionary of Terms* (Thousand Oaks: Sage, 1997).

¹⁰⁷ Kooiman, “Societal Governance”, p. 163.

¹⁰⁸ See for example Kjaer, *Governance*, pp. 99-122 and 172-187.

¹⁰⁹ Kooiman, “Societal Governance”, pp. 161-162.

Forest Stewardship Council (FSC)

Introduction

Having differentiated between the many institutional varieties of contemporary governance, and developed a means of determining their effectiveness, this chapter begins the process of investigating the four institutions selected for analysis. The FSC is the first institution investigated, and, as a system of forest certification, it is particularly interesting as it represents an ‘ideal type’ of market-driven governance on account of its strongly non-state orientation regarding rule-making authority, standard setting and compliance verification.¹ After a history of the emergence, evolution and significant developments affecting the institution, FSC is located within the governance typology discussed previously. This is followed by an analysis of the performance of FSC’s governance system, based on the framework presented in the previous chapter, using written and oral sources. The chapter concludes with a commentary on the findings, a postscript bringing the institution’s history up to date at time of completion, and some observations on the institution as a whole. As this is the first of the case studies, explanatory material expanding on some of the ideas contained in the previous chapters is provided during the course of the chapter. In addition, given the depth of the materials investigated, and the focus on global governance arrangements, much of the nationally relevant material is to be found in the endnotes. The format outlined here is followed in each of the case studies.

Historical Overview

Origins, Institutional Development and Early Controversies

The labelling of wood products has been traced back to a French royal decree of 1637, the purpose of which was to designate the quality of the products labelled, rather than forest management, as is the intent today.² Modern forest certification was developed in the early 1990s as a specific form of private environmental governance to address growing public concerns about global deforestation in the previous decade.³ In 1985, Friends of the Earth (FoE) in England and Wales proposed what is claimed as the first modern timber certification and labelling scheme as part of a campaign to save tropical rainforests. Consumers in Britain and Europe were encouraged to avoid purchasing tropical timber produced on a non-sustainable basis, and the organisation launched its own ‘Good Wood’ scheme. From 1988 onwards, stickers and tags began to be attached to wood products as a “seal of approval.”⁴ In 1989, FoE prepared a proposal for the ITTO to look at the feasibility of developing a timber certification and labelling programme.⁵ The ITTO Council received the proposal in May 1989 but rejected the recommendations for a forest certification and labelling system.⁶

This encouraged NGOs to begin organising around certification more seriously themselves.⁷ At the turn of the decade, the Rainforest Alliance, a US-based non-profit organisation formed the SmartWood Program, created for the purpose of “forestry management certification.”⁸ The programme’s first certification was carried out in November 1990 in Indonesia, covering the teak wood forests of Java, managed by Perum Perhutani, the state forestry agency.⁹ At a meeting in San Francisco in 1991 a group of timber traders and social and environmental NGOs determined to develop an independently audited global system for “good

forest management”, managed by a global umbrella organisation, which, it was decided should be called the Forest Stewardship Council (FSC), and a working group was created to start the process.¹⁰ WWF was to directly attribute the impetus to move forward on certification as a consequence of ITTO’s lack of action, and described the proposed FSC scheme as “leaving the ITTO behind.”¹¹ In March 1992 interested parties met again in Washington, D.C. An interim board was elected, with representation from both developed and developing countries.¹² Six working groups were created with a range of tasks including the drafting of principles of forest management, fundraising and communications.¹³

Discussions during this period regarding the scope and intent of the emerging institution were wide-ranging. Proposals regarding governance arrangements created some controversy. Initial thoughts within the working group favoured the creation of FSC as a foundation, with no members and only a board of trustees. This proposal was resisted by the World Rainforest Movement, which lobbied the working group, and urged other NGOs not to adopt this model.¹⁴ These groups persuaded the working group to adopt a participatory structure including open membership and accountability mechanisms and procedures for settling disputes. It is claimed that such arrangements provided the emerging FSC “with a legitimacy that it would have lacked if established as a foundation.”¹⁵

The term ‘sustainably managed’ was rejected on account of the definitional controversies surrounding this term.¹⁶ At the Washington meeting a draft of what were to become FSC’s Principles and Criteria for Well-managed Forests was discussed.¹⁷ These were categorised around the following matters: legal and administrative, social and economic, and ecological and environmental.¹⁸ It was agreed that FSC should address all forest types. Deliberations regarding the

extension of FSC's forestry mandate beyond the tropics were not easy, however, and northern NGOs were accused of initially wanting certification to relate solely to the tropics.¹⁹

In addition to these founding meetings, consultation processes in ten countries took place between 1990 and 1993 to determine the level of support for a global certification programme for both natural forests and plantations. Following these events a founding assembly was held in Toronto in September 1993 consisting of 130 participants from 26 countries.²⁰ Developing nations were present and included a strong representation from the Pacific Region, which played a significant role in deliberations. Indigenous peoples present also stated their case for the return of their lands. Forest industry representatives included the Canadian Pulp and Paper Association (CPPA) and Californian lumber and milling company, Collins Pine. A number of government representatives and public authorities attended as observers, while research foundations such as the World Resources Institute were also present. Participants were identified as either representing social, economic or environmental interests, and were placed in 'chambers' accordingly. The economic chamber contained forest sector representatives as well as consultants and certification bodies.²¹

Debate as to whether economic interests should be allowed a vote in the proposed future General Assembly was also intense, with Greenpeace and WWF expressing reservations, whilst FoE argued most strongly that they should not.²² A proposal was floated that economic interests be allowed no more than 25% of the voting power in the General Assembly, with the remaining 75% being held by the social and environmental chambers together. In terms of the proposed Board of Directors, two seats were to be reserved for economic interests. Thirteen social

and environmental groups, including Greenpeace, FoE and indigenous groups then withdrew their support, arguing that economic interests had been given too much power, and remained for the rest of the event as observers.²³ Discussions regarding the types of forest to be certified, including planted forests, also proved a subject of intense debate, and the proposed principles of forest management were not finalised.²⁴ The chamber system, in which social and environmental interests held 75% of votes in one chamber, and forest owners and retailers held the remaining minority share of 25% in another, was formalised in 1994.²⁵ The initial principles and criteria for “natural forest management”, of which there were nine, referred to plantations only in so far as their establishment was expressly forbidden on sites of primary and well-established secondary forests, or of environmental, cultural or social significance.²⁶

The ratified Statutes identified the first purpose of FSC to be the promotion of the environmentally appropriate, economically viable and adequate management of forests, as well as “a forestry production that preserves the environment.”²⁷ The By-Laws use the more evangelical term “mission” rather than purpose, redefining the organisation’s role as the promotion of “environmentally appropriate, socially beneficial, and economically viable management of the world’s forests.”²⁸ This mission was to be fulfilled through three activity areas: the promotion of its Principles and Criteria of Forest Stewardship by means of voluntary accreditation of a programme for certifying forest management; conducting educational activities to increase aware of the value of forest certification as a means of improving forest management; and the provision of guidance and assistance to policy-makers, legislators and forest managers on forest management issues.²⁹ In 1994 it established its headquarters in Oaxaca, Mexico, consisting of a staff of

three and an executive director, gaining recognition under Mexican law as a civil association in 1996.³⁰ Following a vote of FSC's founding members in August 1994, the Principles and Criteria (P&C) were agreed upon. The Statutes, later superseded by the By-Laws on a number of procedural and structural matters, were also approved.³¹

The response to the development and founding of FSC was mixed. The reaction in some parts of the social, economic and environmental sectors, which would be expected to favour FSC was not entirely supportive. Some social interests felt the founding assembly only superficially addressed their concerns about lack of consultation and discriminatory treatment of tropical countries.³² The idea of certification itself was met, as has been previously related, by strong opposition within the ITTO. FSC's management emphasis on performance was similarly opposed by senior figures in the global timber industry. These industry forces began a well-planned offensive to undermine performance-based standards, such as those proposed by FSC.³³ It was not only large-scale interests within the forest industry who were concerned about the arrival of FSC. European small forest owners met its decision to base itself in Mexico with suspicion.³⁴

In the same year, and perhaps partly in response to these developments, FSC softened its stance on the certification of plantations, and a revised set of P&C, further amended in 2000, were to permit the certification of plantations, with certain provisos.³⁵ Certification of plantations had been discussed as early in FSC's history as 1991. After the initial approval of the P&C without reference to plantations, the Board of Directors had agreed to extend the Principles to include plantations in 1993. Consultations were held between 1994 and 1995, and after a ballot of the membership in December 1995, in which 89% voted in favour of a

plantations-specific addendum, a new Principle Ten was approved at the eighth Board of Directors meeting in 1996.³⁶

This action may have appeased some forestry interests, but it was to cause growing concerns about FSC's credibility amongst some of those environmental NGOs that had withdrawn from the founding assembly in 1993.³⁷ FSC also began to attract some criticism. At the beginning of 1996 its membership was drawn from only 25 countries and Asia and Africa were not well represented. This increased to 37 by 1997, but numbers in the economic chamber were still criticised as being too low to ensure proper interest representation. Under-representation of social interests, particularly from Africa and Asia was also identified as being a problem during this period, perhaps an even more severe one than economic participation.³⁸ On a separate, but related issue, small forest owners continued to accuse FSC of being discriminatory, in view of the fact that large-scale, tropical forestry certification was both easier to achieve, and more cost-effective, than small-scale operations.³⁹

Nevertheless, between 1993 and 1997 FSC and its supporters were credited with making a significant contribution to international forest certification and the progress of certification might not have been as far-reaching without it. It provided an important forum for policy debate, making certification a reality rather than a concept, as well as stimulating the growth of competing initiatives.⁴⁰ In 1993 an independent working group consisting of academics and NGOs developed an Indonesian ecolabelling standard (Lembaga Ekolabel Indonesia - LEI). Although criticised by some NGOs as being unduly close to government, the programme has been presented as being stricter in some ways than FSC, with whom it entered into cooperation in 1997.⁴¹ The first accreditation contracts were

signed with four certification bodies, and the first certified products bearing FSC logo were released in the UK in 1996.⁴² The first Working Group, also in the UK, was established in the same year to develop nationally relevant management standards. In the following year the first national standard was endorsed for Sweden.⁴³

Despite these positive developments, serious concerns regarding FSC certification, and the manner in which it was implemented by its accredited certifiers also began to emerge from the mid 'nineties. One of the earliest, and most controversial cases, was the certification by the Rainforest Alliance's SmartWood Program of teakwood plantations in Costa Rica.⁴⁴ In 1999 NGO frustration over the failings within the FSC system were to culminate in the production of a highly critical report published by the Rainforest Foundation.⁴⁵

Internally, however, the organisation continued to move forward with a number of policy initiatives, which were brought together during 1999. In January, following an international workshop held in Mexico in 1998, FSC became the first organisation to define high conservation value forests, and to delineate those forest characteristics that merited special protection. This was promoted as representing considerable progress in resolving forestry conflicts.⁴⁶ Policy clarifications were also issued regarding the prohibition on genetically modified organisms from certified forests, the use of chemical pesticides, poorly defined in the P&C, and matters concerning contract labour. Major revisions of the controversial percentage-based claims policy, whereby certified and uncertified sources could be mixed, were also undertaken.⁴⁷ These were seen as part of a process aiming at providing a clear interpretation of the policies contained within the P&C and avoiding undue bureaucracy whilst making

certification accessible, attractive and credible. The intention was to avoid ‘moving the goalposts’, while coping with changing scientific, technical and public opinions.⁴⁸

The 1999 General Assembly was marked by a number of governance-related motions, attempting to address some of the perceived shortcomings of the organisation.⁴⁹ An experienced facilitator was used to guide the membership through the complex procedures now required for speaking to, amending, and agreeing on motions under a revised tripartite economic, social and environmental chamber system.⁵⁰ A number of important motions were passed, notably -- given external criticisms -- on small landowner certification.⁵¹ This and the other motions directed at improving FSC’s performance and policy gaps began to be implemented over the following year.⁵² At the organisation’s second annual conference about half of the agenda was devoted to social issues, and discussions were held regarding workers’ rights, community forestry, indigenous peoples and small forest enterprises.⁵³

Although these initiatives went some way to appease stakeholder concerns, FSC was placed under increasing levels of scrutiny by NGOs, both supportive and sceptical. In May 2001, European environmental and social NGO FERN, published its report *Behind the Logo*, a comprehensive analysis of FSC and its competitor schemes.⁵⁴ Although generally favourable to FSC and critical of other schemes, the findings did not all go in FSC’s favour. The report stressed that FSC was not perfect in a number of aspects, including methods of consultation, communication, and dispute resolution.⁵⁵ A number of NGO complaints were also raised both formally and informally with FSC during this period. These included an ongoing dispute in New Zealand concerning plantation forestry company

Fletcher Challenge Forests and its certifier Scientific Certification Systems.⁵⁶ This concern had arisen largely on account of the unpopular practice of undertaking evaluations using “interim” standards.⁵⁷ The environmental and social NGO, World Rainforest Movement, also released a number of reports far less flattering than *Behind the Logo* aimed at pressuring FSC to change its stance on a number of issues, particularly plantation certification.⁵⁸

In November 2001 the Rainforest Foundation published the report, *Trading in Credibility*, which systematically outlined a number of structural and procedural weaknesses in FSC system, as well as some of the shortcomings of its certification and standard setting activities in a number of countries. Although generally negative, the report nevertheless acknowledged that whatever its failings, FSC was based on sound principles, which could not be said for its competitor, industry schemes, and it was more demanding than them in its assessment procedures.⁵⁹

Consolidation and Growth

FSC’s response to *Trading in Credibility* was relatively measured.⁶⁰ The reception of the report in this manner may be partly attributed to the fact that during the course of 2001 FSC had already worked on a series of policies aimed at better addressing a range of specific -- and controversial -- issues. These included the development of a response to address concerns over plantation certification, the production of a draft chemicals and pesticides policy and the creation of a draft social strategy.⁶¹ Recognising that the organisation had both strengths and weaknesses it was also decided to convene a Change Management Team to take a “good hard look” at FSC’s strengths and weaknesses.⁶² The Board of Directors approved the report, which contained a plan to address FSC’s challenges, in May

2001.⁶³ In response to the report FSC began a process of decentralisation and transformation into a global network the following year. Part of these activities included the placement of the Secretariat within an International Center, which relocated to Bonn in 2003. A decision was also made to create regional offices for Latin America, Africa and Asia.⁶⁴ The regional offices were to support the work of the International Center in its role as the “international framework to market and promote FSC.”⁶⁵

Over the course of 2002 policy matters were addressed in further detail. Work on the social strategy continued, built around the objectives of building the capacity of the social sector to participate and benefit from certification, and increasing FSC’s responsiveness to and communication with its social constituents. A related initiative to increase access to certification for small and low intensity managed forests also commenced.⁶⁶ Both these initiatives were endorsed at the third General Assembly in November, which somewhat ironically coincided with the launch *Trading in Credibility*.⁶⁷ A group chain of custody policy, aimed at providing small timber processors with more options for accessing chain of custody (CoC) certification was also finalised.⁶⁸ Guidelines advising on how to incorporate ILO conventions into the P&C were also released. At the forest management level the process to undertake a full review of the organisation’s plantation policies was commenced, while the chemical pesticides policy, following two years of “intensive discussion and debate”, was finalised.⁶⁹

A significant number of motions debated at the third General Assembly were related to governance and revisited some of the uncompleted business of 1999, or other controversial matters. In terms of institutional governance arrangements, perhaps the most symbolic decision made was to give equal representation to all

three chambers on the Board, which was passed by an overwhelming majority.⁷⁰ FSC decision making in the General Assembly was also defined in more -- almost microscopic -- detail.⁷¹ Further measures to improve organisational responsibility towards participants in policy development were also instituted.⁷²

The percentage based claims policy was revised to allow highly mechanised sawmills dealing with only small quantities of wood to participate in FSC system in “an economically viable manner”, whilst a motion to set the minimum volume of certified timber in solid wood products at 70% was defeated.⁷³ Motions to further encourage indigenous peoples’ and local communities’ access to certification, and to increase southern chambers’ participation in the preparation and presentation of motions at General Assemblies were also passed.⁷⁴ A range of other motions aimed at improving the quality, consistency and transparency in relation to the activities of certifications bodies were also passed.⁷⁵ It was agreed that the use of interim certification using the certifiers’ own generic, standards, which had caused so much trouble in New Zealand, would also be phased out over time. National standards under development by a national initiative, even if they were in draft form, were to be incorporated in assessments undertaken by certification bodies.⁷⁶

Despite the work that had been done earlier in the year on the plantations policy, a majority of delegates (75.3%) still considered the current draft to be unclear and in need of improvement. It was resolved that eighteen months of broad consultation was necessary for the revised policy to give clear guidance on how Principle Ten should be interpreted.⁷⁷ This was a timely reminder on the need to work further on plantation certification, as the World Rainforest

Movement published another hostile report (cataloguing ongoing problems in Thailand and Brazil) in August 2003.⁷⁸

The relocation of the International Center to Germany in February 2003 was intended to improve services to stakeholders, certification bodies and national initiatives. The new arrangement was presented as being more able to respond more effectively to the needs of a more flexible, decentralised and global network. Staff members were organized into units covering accreditation, policy and standards, marketing and communication, human resources and administration.⁷⁹ The implementation of the various decisions of the General Assembly commenced with the release of an updated social strategy. This was followed by announcements regarding reviews of group and multi-site chain of custody policy and pilot tests of the new draft chain of custody standards. Trials of the first small to low intensity managed forest certification procedures also commenced. New draft standards for the development of national and sub-national standards were also circulated to the national initiatives for comment, and a specially convened technical committee examined the new accreditation standards due to replace the old accreditation manual in 2004. An external team of consultants was also brought in to develop a guidance document on the interpretation of Principles Two and Three for certifiers using generic standards.⁸⁰ This was in response “to the findings of the recent NGO study on the implementation of FSC’s Principles 2 & 3 in Indonesia” (presumably an oblique reference to *Trading in Credibility*).⁸¹

The years from 2003 onwards can be summarised as ones of further consolidation for FSC, following a major reorientation of the organisation into a decentralised global network.⁸² Characterising its first ten years as being built on “youthful enthusiasm”, Chairman David Nahwegahbow and Executive Director

Heiko Liedeker accepted the need to move on in “mature and systematic” manner, and continue efforts to better involve social stakeholders.⁸³ Internally, the three chambers also appear to have reached some level of mutual accommodation during this period.⁸⁴

Several new or revised standards and procedures were released in 2004, along with a simplified trademark manual and labelling guide.⁸⁵ Two of the four standards associated with the new chain of custody arrangements are worth mentioning. These related to the handling of non-FSC “controlled wood” from uncertified forests.⁸⁶ The intention was to assist companies, governments and financial institutions eliminate “controversial” sources of timber from their supply chains, particularly illegally harvested wood.⁸⁷

In 2004, a follow-up report to *Behind the Logo* published by FERN, *Footprints in the Forest* compared FSC to an increasing number of competitor schemes.⁸⁸ Although much kinder to FSC than most of the other schemes investigated, and still considering it to be “the only credible scheme” for most NGOs, the report was nevertheless critical of FSC on matters relating to both policy and performance.⁸⁹ In particular it needed to “seriously address” the problems that were associated with plantation certification.⁹⁰

The continuous opposition to plantation certification was finally substantively addressed by FSC from 2004 onwards. In that year the organisation announced the launch of a review, issuing a discussion paper and holding an international stakeholder meeting.⁹¹ Over 100 individuals from 30 countries attended the event, intended to start what was envisaged as a two-year process. Participants heard from a range of stakeholders, including NGOs, who “outlined several persistent criticisms.”⁹² In February 2005 a policy working group was established,

consisting of twelve participants, representing the three chambers each balanced north/south.⁹³ The working group presented its final report to the Board of Directors in November 2006.⁹⁴ The report recommended one common set of integrated P&C, rather than retaining a separate Principle Ten.⁹⁵ It was accepted that “certification should be open to operations across the whole continuum from low impact management of natural forests to high-intensity short rotation plantations.”⁹⁶ The higher the impacts of management “the greater the emphasis needed for prevention, mitigation and compensation measures.”⁹⁷ Further recommendations of significance included putting measures in place to elevate the social components of FSC system to an equal footing with its economic and environmental aspects. The obligations for engagement with interested and affected parties were placed on the forest manager, before commencing certification assessment. The role of the certifier was to become one of auditing the extent to which the forest management genuinely involved stakeholders in discussions, and resolved conflicts.⁹⁸ A technical phase commenced in April 2007, with the guidelines and the revisions to the P&C to be presented to the General Assembly of 2008.⁹⁹ A first draft of the revised P&C was made available for consultation in June 2008.¹⁰⁰

Governance Within FSC

System Participants

Both members and non-members may participate within the FSC system on the international, national and regional/local levels. Membership of the institution can be held by either individuals or legal entities (including governments under specific conditions), which support the association and its purposes and P&C.¹⁰¹ The organisation is open to all participants who participated at its in its founding,

those later admitted by the General Assembly, and those as outlined by the provisions laid down in the Statutes. Legal entities must designate a representative, who is responsible for maintaining the relationship between FSC and the member body.¹⁰² The rights and responsibilities of FSC's associates include: active participation in the General Assembly; to vote or hold any elected office; to submit for consideration initiatives relating to FSC's core activities; and to report on and publicise its activities within the association.¹⁰³

Membership of FSC is broken down into three interest chambers.¹⁰⁴ The members of these chambers are further sub-divided according to their country of origin, identified according to whether the country belongs to the global North or the global South. Northern countries are understood according to the United Nations criteria as being those with a high income; those from the South are determined by having low, middle, or upper-middle incomes. The Board has the final say in determining the status of a given country.¹⁰⁵ The "economic interest chamber" consists of those with a "vested interest in commercial forest product organisations", either for-profit, or not-for-profit.¹⁰⁶ The environmental chamber is limited to law-abiding non-for-profit NGOs, whose governing bodies are independent from governments and which are renewed by periodic elections or appointment.¹⁰⁷ The social chamber is identified in the By-Laws as consisting of indigenous organisations and "social movements."¹⁰⁸ This definition is expanded elsewhere to include non-profit NGOs and unions.¹⁰⁹ Academic, research, legal and forest product associations are assigned to the relevant chamber, based on the nature of their activities, by the Board.¹¹⁰

Members participate in the General assembly according to the tripartite, chamber-based arrangement.¹¹¹ A proxy may represent members at the General

Assembly. Non-members may attend the General Assembly at the Board's discretion as observers.¹¹² The Board of Directors consists of nine members. Each chamber is represented through three members, a northern and southern member, while the third position alternates between the two sub-chambers.¹¹³ They may be either individual or delegated representatives and may serve two consecutive three-year terms.¹¹⁴ Certification bodies may not represent economic interests on the Board.¹¹⁵ The dispute resolution committee also reflects FSC's structural representation of six members from the three chambers and sub-chambers.¹¹⁶ It also allows for at least one member from North America, Central and South America and the Caribbean, Europe, Oceania, Asia and Africa.¹¹⁷ Committees and working groups are also expected to seek a balance between the different sub-chambers. National initiatives, in addition to the expected structural provisions for balanced representation, also have the liberty to create more than three chambers.¹¹⁸

The membership application process is complex, and varies according to the sector applying.¹¹⁹ Membership fees, charged on a sliding scale on the basis of operating expenditure, but without discriminating against southern members, are levied to cover the costs of servicing the membership.¹²⁰ There were 643 members of the organisation at the end of 2006.¹²¹

Institutional Arrangements

International Level

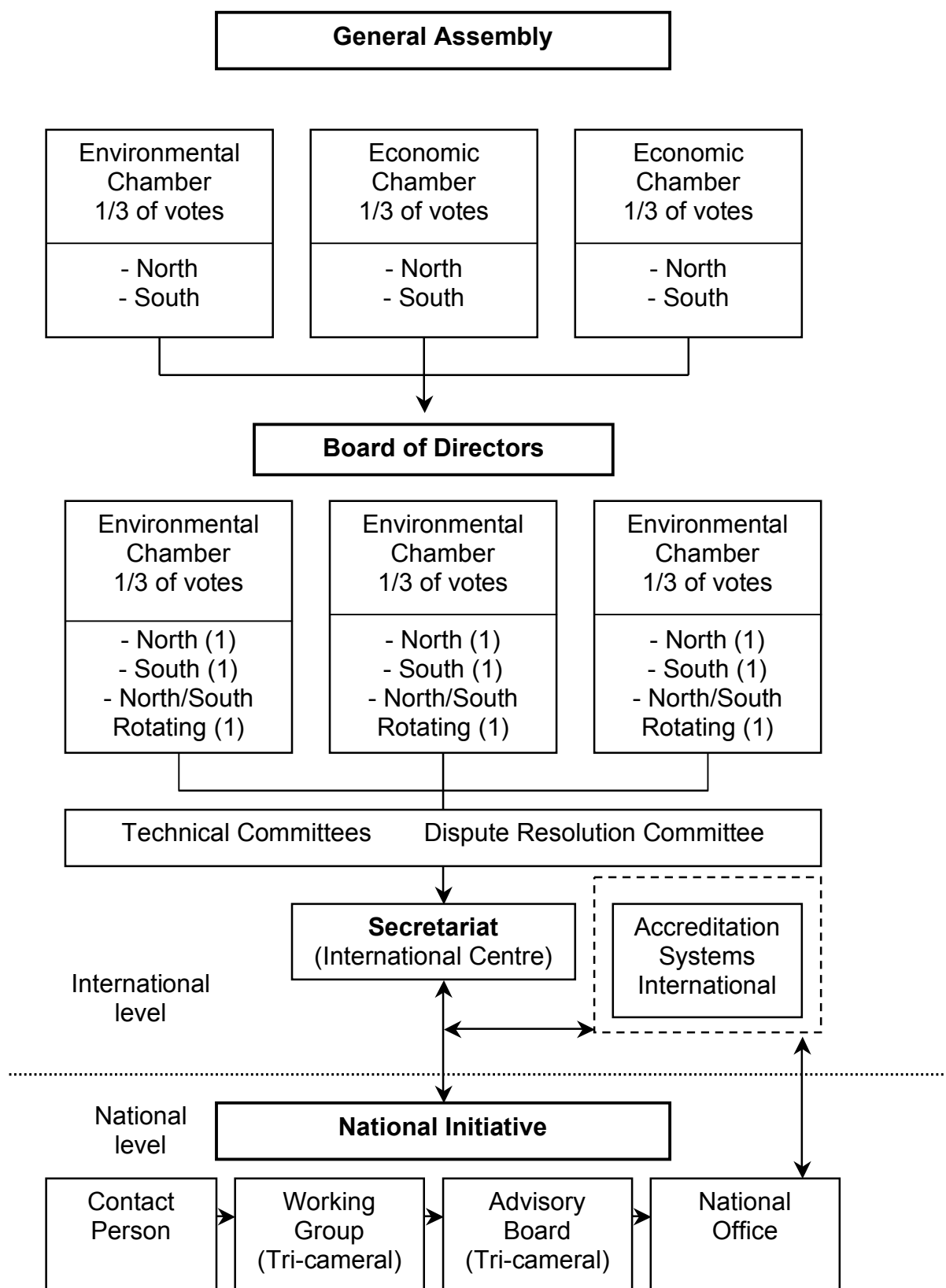
The structure FS is depicted in Figure 4.1 below. The General Assembly is the highest organ of FSC.¹²² It meets at least once every three years, and its role is identified as largely consisting of reviewing the organisation's activities and

finances, amending the Statutes, and admitting or excluding members.¹²³ It may raise other matters, but is expected to restrict itself to these tasks.¹²⁴

The General Assembly is responsible for electing the Board of Directors, as well as the creation of a nomination committee to seek Board candidates. The Board is the formal organ of management of FSC.¹²⁵ If required, the Board may appoint technical advisors -- balancing northern and southern interests -- to assist in matters for which it does not have the necessary expertise.¹²⁶ The officers of the Board include a Chairman, Vice-chairman and Treasurer, and a Secretary, who need not be a Board member.¹²⁷ The main tasks of the Board are related to the management and direction of the association's affairs, the preparation and administration of the budget, and the drafting of By-Laws and managing disputes.¹²⁸ The Board has the authority to establish committees to assist FSC with its operational and management tasks, in which both members and external experts may serve. An example used in the By-Laws is a technical committee, which could review and make recommendations on such matters as the P&C or national/regional standards.¹²⁹ Various committees exist and include membership, finance, accreditation, standards, and dispute resolution.¹³⁰

The Chairman is responsible for presiding at General Assemblies and Board meetings, and the submission of (and reporting related to) the association's annual financial statements and proposed budgets at the General Assembly. The Chairman may also represent the organisation to third parties if so determined by the General Assembly. The role of the Vice-chairman is to assist the Chairman in any of the latter's designated duties.¹³¹

Figure 4.1 Structure of the Forest Stewardship Council



Source: Elliott 2000, p. 19 and Vallejo and Hauselmann, 2004 p. 9, adapted.
(Dashed lines around Accreditation Systems International indicate autonomy).

The Treasurer has the official role of monitoring the organisation's financial affairs, the day-to-day management of which is undertaken by the Executive Director and staff accountant.¹³² The Executive Director automatically fills the position of Secretary and is present, in a non-voting capacity, at all Board meetings. A Board or staff member may occupy the position in the event that the Executive Director is not present.¹³³

The Board oversees the performance of the Executive Director.¹³⁴ The Executive Director heads the organisation's Secretariat and is effectively chief executive officer.¹³⁵ The Executive Director is responsible to the Board for effectively implementing policy. Other responsibilities include management, on behalf of the Board, of the finances, accounting and administration of the organisation, and for ensuring that the legal requirements are met in all countries where FSC is active. The position is subject to a performance review at least once a year.¹³⁶ The position is not a statutory one, and may be designated at the discretion of the Board, or the General Assembly.¹³⁷ Duties associated with heading the Secretariat include the appointment of staff.¹³⁸ In addition to dealing with matters of internal regulation, the Executive Director is also responsible for representing the organisation publicly, and encouraging collaboration between individuals and groups to assist in the fulfilment of FSC's mission.¹³⁹ The duration of the office is at the discretion of the Board.¹⁴⁰

The Secretariat as a whole is responsible for supporting and guiding the day-to-day activities of FSC internationally.¹⁴¹ Located within the Secretariat is the Policy and Standards Unit, the role of which is to initiate the development of guiding documents, such as standards.¹⁴²

Historically, FSC has run its own accreditation programme “to provide a credible assurance that they are competent and independent.” The programme is responsible for accrediting certification bodies according FSC’s standards.¹⁴³ It is also responsible for accrediting FSC’s own standards.¹⁴⁴ FSC National Initiatives (NIs) must also be accredited.¹⁴⁵ In order “to ensure the credibility of the certification process” the content of any standards developed in the system are evaluated for compatibility with FSC P&C, and local applicability.¹⁴⁶ In 2006, following international developments in accreditation, a wholly legally and constitutionally separate body from FSC, Accreditation Systems International, was created to manage the programme’s accreditation services (see also under Accountability below). ASI currently functions out of the same building as the International Centre.¹⁴⁷ As of June 2007 there were 16 accredited certification bodies within the FSC system.¹⁴⁸

National Level

The Statutes contain little reference to FSC at a national level, other than a possible inference, concerning the rights of members to submit ‘initiatives’ consistent to its mission and objectives.¹⁴⁹ This gap is addressed in the By-Laws, which state that FSC is obliged to encourage national and regional initiatives in line with its mission.¹⁵⁰ The objectives of such initiatives are to encourage local participation and decentralise FSC’s activities.¹⁵¹

National initiatives are intended to assist in the promotion of FSC and make it more locally relevant and accessible. They have two main aims: to develop and test regional standards by encouraging local participation, with the assistance of the organisation’s international membership; and to support the implementation and monitoring of certification activities.¹⁵² The expansion of national initiatives

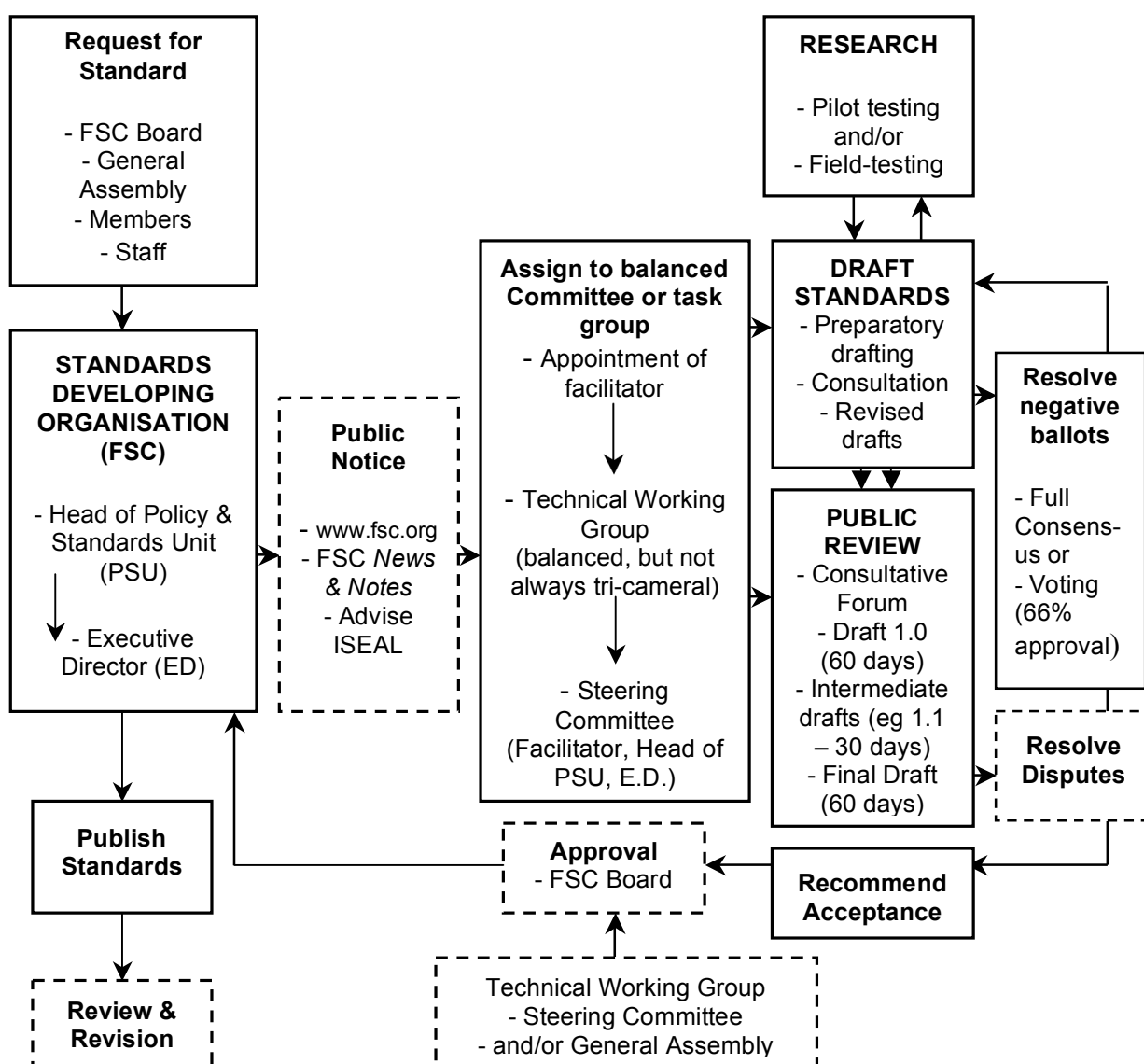
is built into FSC's annual business plan, which identifies those countries that are to be the focus of activities.¹⁵³ There are currently 42 national initiatives within the FSC system and 28 accredited national standards.¹⁵⁴ At the time of writing, 34 national initiatives were accredited as compliant with FSC requirements.¹⁵⁵ National initiatives go through three developmental stages (contact person, working group, advisory board) until a national office is finally established as outlined in Figure 4.1.¹⁵⁶

A wide-ranging set of participatory requirements is placed on national initiatives. These include dissemination of information to in-country members and other national stakeholders, and updating the Secretariat. The extent to which information is circulated is determined by consultation with the Secretariat and the regional coordinator/director. Consultation is a major aspect of national initiatives, both in terms of the contribution of a national perspective on policies under development internationally and managing consultations with stakeholders relating to certification activities nationally.¹⁵⁷

Standards Development, Accreditation, Chain of Custody and Certification

FSC published a procedure for the development and approval of international standards in 2004 (see Figure 4.2 below).¹⁵⁸ The procedures comply with the International Social and Environmental Accreditation and Labelling Alliance (ISEAL) Code of Good Practice for Setting Social and Environmental Standards (2004), ISO/IEC Guide 59 and the WTO Technical Barriers to Trade Agreement, Annex 3.¹⁵⁹ Their development is intended to reflect transparency, participation and fairness by complying with international best practice.¹⁶⁰

Figure 4.2 International standards development process within FSC following accepted practice

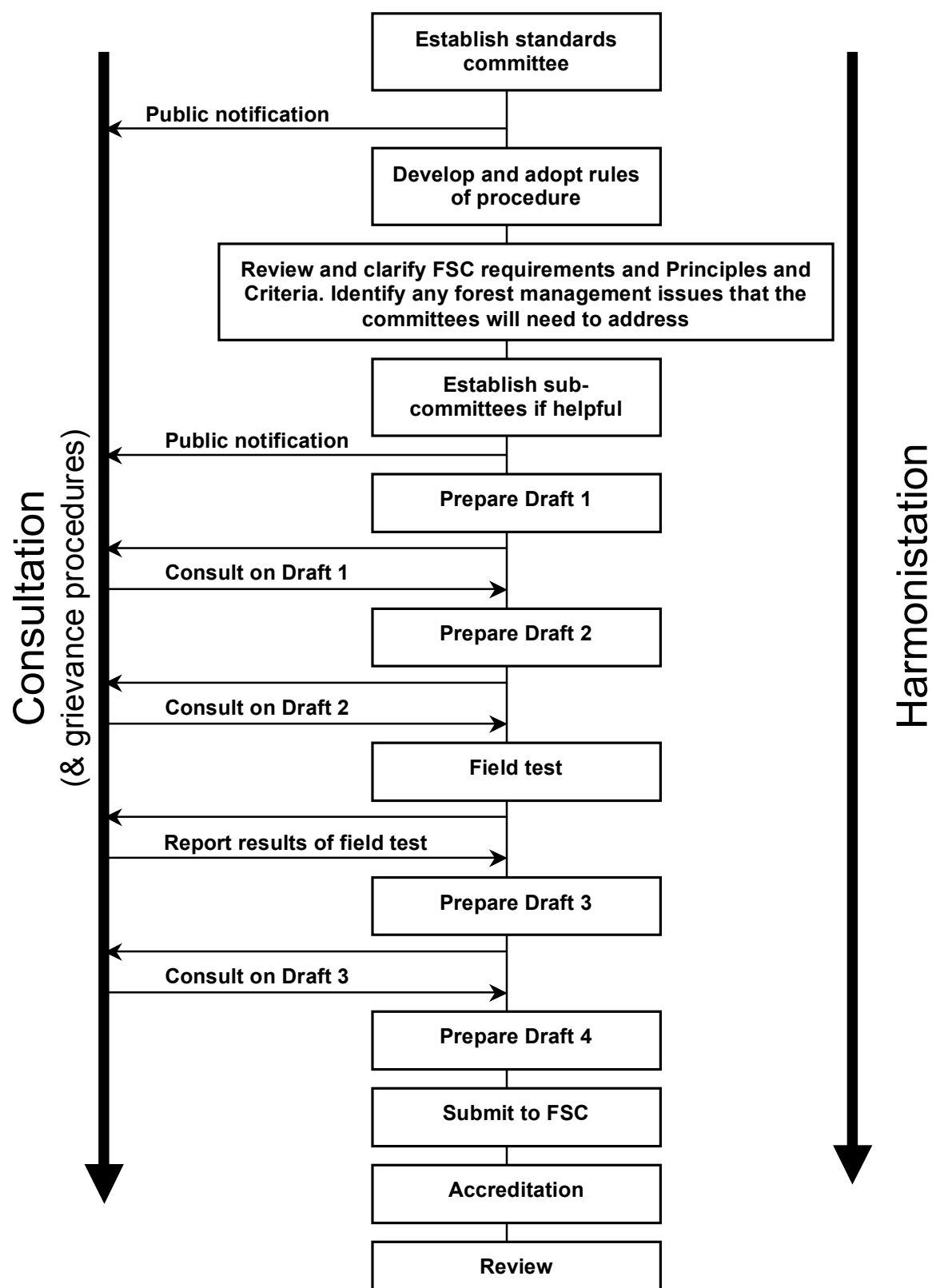


Source: ISEAL 2003, following Toth, 2003, p. 8 and FSC-PRO-01-001; dashed lines indicate additional components to those identified by Toth, 2003.¹⁶¹

A number of FSC standards have been developed internationally. Standards development is relatively complex, but incorporates three main stages: initiation (request for the standard and formation of committees, staff and working groups); development (public consultation, drafting, testing, resolving disputes and approval); and implementation (publication, and review and revision).

National working groups are responsible for the development of national standards (see Figure 4.3 below).¹⁶²

Figure 4.3 National FSC standards development

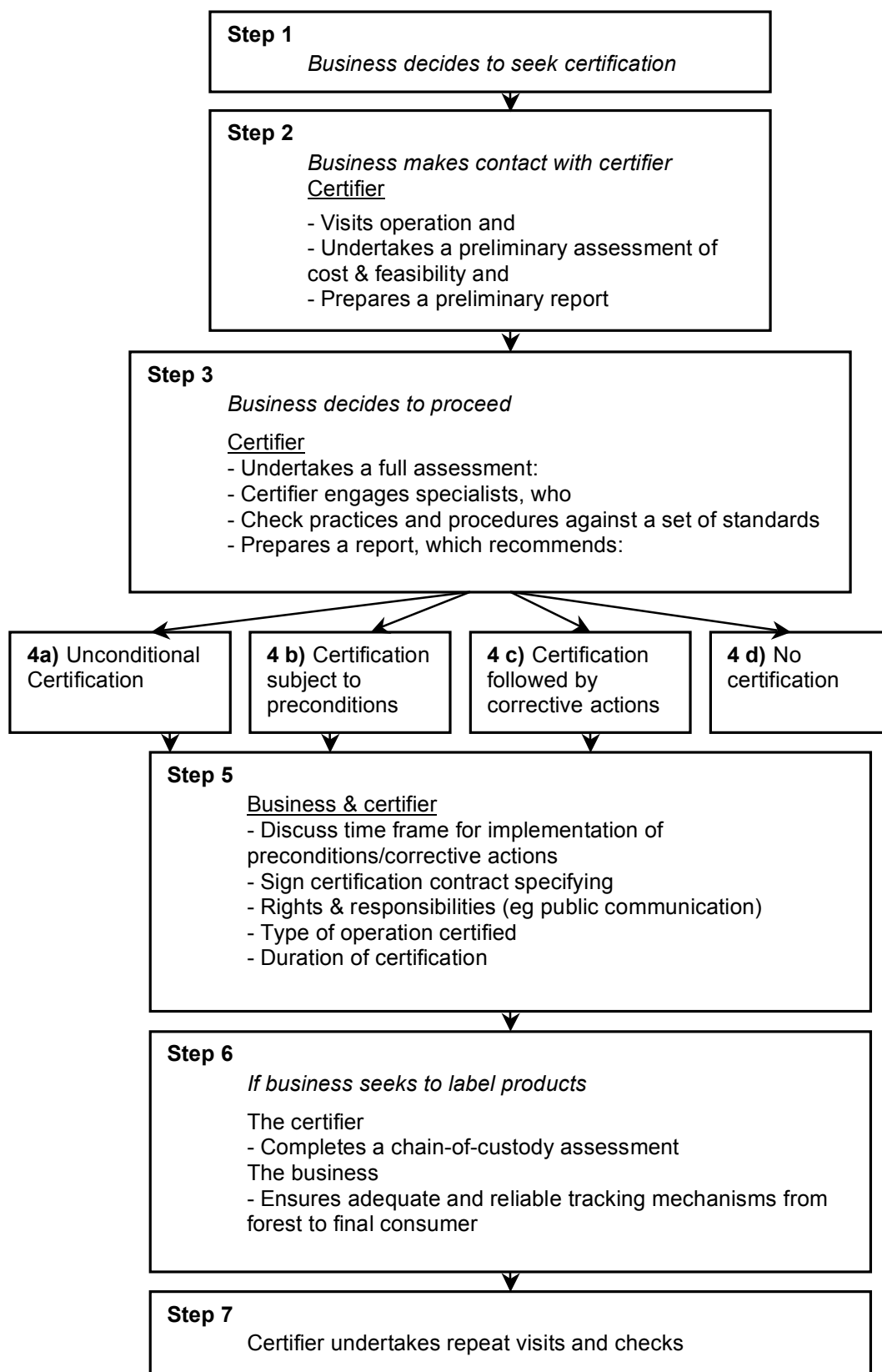


Source: Scrase and Lindhe, 2001, pp. 13 & 35, adapted.¹⁶³

The purpose behind developing standards regionally is to make FSC standards locally applicable and workable. Locally defined forest management standards must be endorsed by FSC internationally, and are then used by certification bodies in their local activities. These standards form the basis upon which grievance procedures are instigated nationally.¹⁶⁴ Standards development on the national or sub-national level must comply with the requirements of draft FSC standard FSC-STD-60-006 and FSC-STD-20-002.¹⁶⁵ The development of standards is expected to demonstrate balanced multi-stakeholder participation and representation, accountability and transparency, fair decision making processes (including clear grievance procedures), and must harmonise with other regional standards, as depicted in Figure 4.3 below.¹⁶⁶ FSC forest standards are performance-based, defining levels of management that forest operations must achieve in order to be certified.¹⁶⁷ Performance is based on the system's ten principles and 56 criteria, and although there is variation between national standards they must meet these P&C whilst still being appropriate to the country.¹⁶⁸

FSC accredited certification bodies may conduct both chain of custody and forest management certification for plantations and native forests, subject to the scope of their accreditation. They may also issue sub-licenses for the use of FSC name and trademark.¹⁶⁹ The generic process of forest certification is outlined in Figure 4.4 below, and is applicable to other forest management certification programmes discussed in this study. Many of the certification bodies operate through affiliated organisations in various countries; these are not listed by FSC, but with the parent company.¹⁷⁰ The process is initiated through the request of a forest owner or manager.

Figure 4.4 The forest certification process



Source: Elliott, 2000, pp. 8-9.

Where there is an adopted national standard it is used by the certifier as the basis for assessment.¹⁷¹ Where there is no endorsed national standard the certification body uses their own ‘generic’ standard.¹⁷²

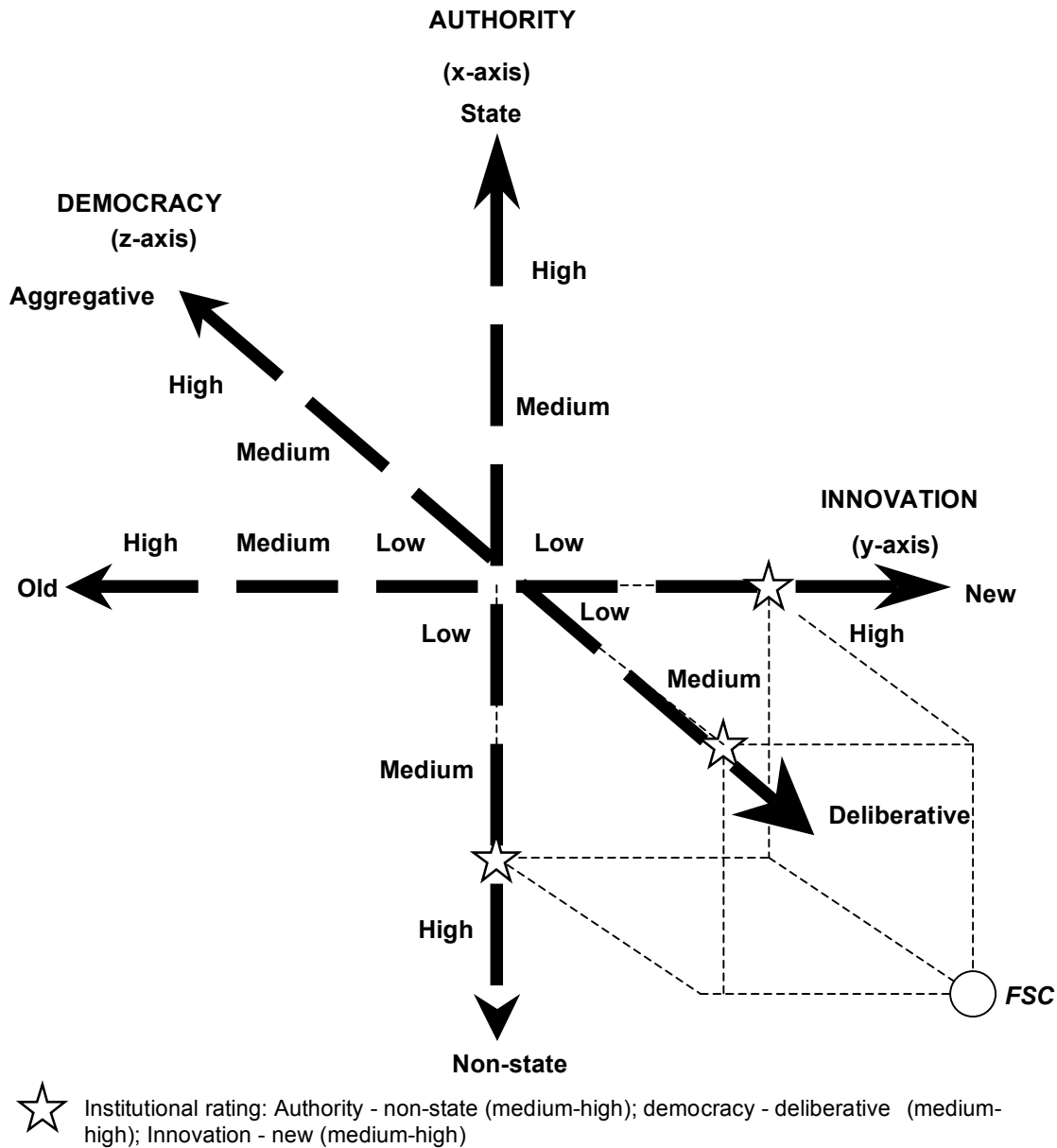
Consultation of interested parties by certification bodies is required under Principle Four. A standard for stakeholder consultation undertaken by certification bodies during their evaluation of a forest manager’s activities was published in 2004.¹⁷³ The extent of consultation is related to the scale of the operation under evaluation.¹⁷⁴

Institutional Typology

FSC has been generally depicted as being “built out of an amalgam of sustainable development discourse, participatory, multi-stakeholder processes, technical standards setting conventions, and emerging international trade rules.”¹⁷⁵ Its governance in particular has been characterised as consisting of delegated global transnationalism and in more recent, FSC-specific studies, as global democratic corporatism.¹⁷⁶

In terms of authority, the view that FSC represents an ‘ideal type’ of non-state market driven governance is reinforced by the fact that it has been created by business and NGO interests with a considerable role played by civil society.¹⁷⁷ This places it relatively far along the non-state end of the authority continuum. This location of authority places it at some distance from traditional conceptions of state-centric international (specifically ‘soft’) law.¹⁷⁸ However, it is not purely non-state. Governments may play a role in the institution, although this role is relatively confined, and government interests are located only in the economic chamber. Its authority is therefore somewhere between **medium** and **high**.

Figure 4.5 Institutional classification of FSC



FSC's democratic style is closely identified with deliberative approaches.¹⁷⁹

The use of consensus decision making is also the preferred mode of reaching agreement, although voting may be used when consensus cannot be reached.¹⁸⁰

Voting here however, is generally of a qualified majority nature, as discussed above. This places FSC relatively far along the deliberative end of the democracy continuum, but taking the consideration of the fact that voting occurs (even if it

goes beyond the traditionally more aggregative system of the simple majority) it is again located somewhere between **medium** and **high**.

FSC's governance is clearly 'new'.¹⁸¹ However, the same could be said of the other systems, which are examined in subsequent chapters, such as ISO, which also demonstrates that non-state and business interests can wield substantial regulatory powers in contemporary global environmental governance.¹⁸² The question here is not a matter of whether the FSC is innovative in its governance, but how much. The FSC can be seen as following global institutional norms by adopting the terms and structures of the United Nations framework. Here, the FSC's use of the General Assembly model, (even if it has been adapted) and the co-option of various UN normative definitions (such as those relating to geographical regions, and levels of national economic development or donor country status) also make it relatively 'traditional'. However, the system's participatory structure, which balances traditionally oppositional interests through its chamber system, and then further divides these sectors into northern and southern sub-chambers, is unique.¹⁸³ This sets it apart from other global governance systems. In terms of innovation, FSC clearly belongs on the 'new' end of the continuum, and is once again located somewhere between **medium** and **high**.

Critical Analysis

This section examines the manner in which the governance arrangements discussed in Chapter Two are demonstrated by the institutions under investigation, in this case, FSC. These arrangements are explored using the specific indicators identified in Chapter Three (inclusiveness, equality, resources, accountability, transparency, democracy, agreement, dispute settlement,

behaviour change, problem solving and durability). As outlined in Chapter One, the institutions are evaluated on the basis of three sources of information: the institution's own history and documentation; scholarly observations and critical commentaries/'grey' literature; and personal interviews. Materials collated from the case study interviews are generally treated separately, or are included in the general commentary associated with each indicator if they contain factual information in addition to, or otherwise omitted from, the other sources used.

Interest Representation

The representation of interests within a governance system is a fundamental aspect of participation. Representation needs to be *inclusive* in the sense that as wide a range of interests as possible has the possibility to be involved in the system. Representation also needs to be *equal*, in the sense that all interests have a similar level of influence in the system (access and weight). Finally, *resources* (or capacity) relate to the extent to which participants are supported by the institution to represent their interests in the system, either financially or through the provision of technical and institutional support.

In each case study, interest representation is explored by examining firstly the manner in which the institution's constituents, members and non-members, are included within its governance system. Inclusiveness is evaluated according to the system's internal governance, and the participatory structures associated with its activities (such as standards setting and certification). This is followed by an examination of the degree to which the total system demonstrates equality, understood here as the level of influence exerted within, and over, the system by interested parties, and the balance between each interest grouping. Finally, this

criterion is informed by the extent to which the institution provides the necessary resources to facilitate participation across the system.

Inclusiveness

FSC has been identified as the most inclusive of the forest certification schemes in terms of the participation of a broad range of civil society participants, but less so for state actors.¹⁸⁴ The programme's deliberate policy in its formative years of excluding governments from participating in the system on account of not wishing to anger NGOs (who felt state interests already had enough control over forest management) has been criticised.¹⁸⁵ Following a decision at the 1999 General Assembly to investigate the participation of government bodies as members of FSC, a motion was passed at the General Assembly in 2002, which permitted "government owned or controlled companies" to join the economic chamber.¹⁸⁶ Other government representatives are currently not eligible for membership, although the option exists for the creation of a chamber for government at the national level.¹⁸⁷

FSC standards acknowledge the importance of including national and local stakeholders in the certification process. Both governments and NGOs are recognised as stakeholders on the national level, as well as individuals and members of the community directly affected by forest management at the local level.¹⁸⁸ Stakeholders include any in-country FSC national initiative, state forest agencies and statutory bodies, national and regional ENGOs, indigenous peoples' organisations and forest dwelling- or forest using communities, labour organisations and forest workers, contractors and international NGOs active in a given region.¹⁸⁹ Some businesses remain dissatisfied with the accommodation of

their needs within the system. FSC's inclusiveness has been identified as a constraint in the effectiveness of its dealings with business.¹⁹⁰

Interviews

Interviewees expressed a range of views on the extent of inclusiveness within FSC. On an international and institutional level, NGOs felt that social interests had been left somewhat behind.¹⁹¹ Environmental NGO involvement had started earlier.¹⁹² Another NGO stakeholder felt FSC still needed to be "much more proactively inclusive" than it currently was. Generally speaking they felt FSC could have put more effort into including wider social and environmental movements.¹⁹³ FSC's emphasis on social inclusion led another NGO interviewee to conclude that this was the reason why local communities had the power to discuss, influence, and work with the big firms around them.¹⁹⁴

Business interviewees made a number of observations regarding the extent to which economic interests were included in the FSC system. One interviewee felt that certification was a developing process. FSC had started earlier than other programmes and was consequently more inclusive. In the past FSC had been the subject of complaints from forest owners and industry that it was too NGO driven. FSC had responded by inviting them to become involved and "change the system from inside."¹⁹⁵ Another interviewee elaborated upon this final observation. Although the industry had been invited to participate it had not got involved. As a result, a number of FSC's early standards had been "very flawed."¹⁹⁶

Interviewees from other sectors had divergent opinions on the inclusiveness of FSC. One made the observation that their government had become a member because FSC had been first scheme for developing a certification system in their country. They felt it had been fully participatory from the beginning because

private forest owners had been invited to become involved.¹⁹⁷ Another commented that within FSC system standards setting processes were open to all stakeholders whether they are individuals or organisational representatives, and all perspectives were taken into account.¹⁹⁸ A third interviewee disputed the view that FSC was inclusive because it had been dominated by NGOs from its outset, and no one had been able to prove the contrary.¹⁹⁹

Views on the effectiveness of the structural arrangements for including the different interests varied across the sectoral groups interviewed. One interviewee argued in favour of FSC's chamber system, believing there might be cases where governments deserved representation in their own right in a single chamber.²⁰⁰ In one instance the system was criticised for being overly bureaucratic, particularly in terms of membership application.²⁰¹ Another saw that despite the apparently inclusive appearance of the chamber system and North/South balance, such arrangements could still be manipulated. This was the case for other certification programmes as well, including PEFC and ISO, but in the case of FSC, private forest owners were affected because they could be classified as having a strong social interest, but were confined to the economic chamber.²⁰² Finally, there were conflicting views, and a number of tensions identified by interviewees, regarding the relationship between participation and consultation within the FSC system.²⁰³

Evaluation

Clearly, inclusiveness is an integral component of FSC's participatory structures. Considerable thought has gone into determining how stakeholders (both members and non-members) should be included within the institution's governance structures from the international, through to the local level. The institution has also responded to changing socio-political interactions amongst active

stakeholders by revising its chamber-based structure. These considerations would initially rank FSC's inclusiveness as very high. However, there have been, and continue to be some problem areas. There is some tension among economic interests regarding the extent of their inclusion, and some weaknesses persist regarding social, and particularly indigenous, inclusion. One particular participatory problem concerns the ambiguities surround consultation, where interests are not included to the same extent as in standard setting, or FSC's membership-based structures. Despite these caveats, the inclusiveness of FSC is rated as **high**.

Equality

FSC's tripartite governing structure has been identified as being an innovative institutional model, which has prevented the organisation from being captured by economic interests and has provided a minimal standard for equal North/South representation.²⁰⁴ In 1999 Interim Board member Julio César Centeno accused FSC of lacking balanced participation from developing countries and of being dominated by northern NGOs and their northern industry allies. FSC also cared mostly about certifying large-scale producers at the expense of small forest owners, for whom certification, unless they were in Europe and had access to other certification programmes, was unachievable.²⁰⁵ The North/South imbalance in economic representation has been attributed to the increased compliance costs associated with ecologically complex tropical forest certification, and the prevalence of better regulatory standards in the North, which makes compliance comparatively easier, and certification more attractive.²⁰⁶

Economic interests were initially given less influence in the system, but -- in what has been described as a "pragmatic shift to attract greater business support"

-- the membership structure was modified in June 1996 in response to claims that it was anti-industry.²⁰⁷ The revised structure was designed to avoid the domination of the decision making by any single chamber, group or region.²⁰⁸ Access to FSC certification by small forest enterprises has been criticised as well, although improvements have been made in recent years.²⁰⁹ Business interests play their role, but in a more limited fashion than in other international forums. This level of business involvement defines FSC's specific identity.²¹⁰

The role of social stakeholders in the FSC system has been acknowledged as weak in comparison with other sectors. This may be partly attributable to the historical fact that social stakeholders in the FSC system did not obtain their own chamber until 1996, when the social and environmental chamber was divided. A number of initiatives were taken between 1996 and 2001 to improve the situation.²¹¹ These were to culminate in the publication of a social strategy in 2002, which acknowledged that workers, local communities, small forest enterprises and indigenous people in particular were "marginalized politically" within FSC.²¹² It should also be noted however that the chamber system gives proportional power through the weighted voting system to those social interests who do participate, even if their numbers are fewer (see also under Democracy below). The strategy acknowledged in particular that this was the case for FSC certification processes.²¹³

Equality of participation at the local level during certification assessments still remains limited. Although the certification body must take "meaningful accommodation" of concerns, it is not required to "seek or develop consensus" in modifying standards for the local context.²¹⁴ Furthermore, although the opinions and the information provided by participants are to be "evaluated objectively and

meaningfully”, certifiers are not obliged to act upon it. Matters raised by local interests impact the certification decision “only in so far as its provides evidence of compliance or non-compliance with the requirements of the applicable Forest Stewardship Council Standard.”²¹⁵ Such groups have been identified as being easily overlooked by certification bodies, playing an insufficient role in certification decisions.²¹⁶ One response arising out of the strategy was to recommend more comprehensive consultation requirements for certification bodies to better assess social issues.²¹⁷

Numerically, the economic north sub-chamber has consistently dominated, with the social south sub-chamber being least represented. See Table 4.1 below.

Table 4.1 Composition of FSC membership 1997, 2003 and 2006

Chamber	1997	2003	2006
Economic North	66	188	161
Economic South	17	96	117
Environmental North	63	122	113
Environmental South	20	100	141
Social North	23	71	56
Social South	11	41	55
Total	200	618	643
Individual	-	253	-
Organisational	-	365	-

Source: Elliott 2000 p. 265, *10 years of FSC 1993-2003* p. 14, *FSC News and Notes* 4(11), p. 2.

The social chambers are now equally balanced however, and the economic south sub-chamber is catching up on its northern counterpart. For the first time in 2006 the environmental south sub-chamber overtook its northern counterpart.

Board members are expected to reflect regional and gender balance.²¹⁸ The regions are identified in the composition of the dispute resolution and accreditation committee as being North America, Central and South America and

the Caribbean, Europe, Oceania, Asia and Africa.²¹⁹ The following two tables indicate the composition of interests in 2003 and 2007.

Table 4.2.1 Composition of FSC Board of Directors 2003

Economic	Social	Environmental
Victor Giraldo (Vice-Chairman) Smurfit Cartón de Colombia South South America (male)	Martha Nuñez Fundación Ambiente y Sociedad Ecuador South South America (female)	Lincoln Querevado (Vice-Chairman) Individual Bolivia South South America (male)
Shaun McCartney Global Forest Products South Africa South Africa (male)	David Nahwegahbow (Chairman) Algonquins of Barriere Lake Canada North North America (male)	Grant Rosomon Greenpeace New Zealand North Oceania (male)
Åsa Tham Diocese of Västerås – Church of Sweden Sweden North Europe (female)	Gisbert Schlemmer (Treasurer) IG Metall Germany North Europe (male)	Hannah Scrase FERN United Kingdom North Europe (female)

Source: *10 years of FSC 1993-2003*, p. 14

Table 4.2.2 Composition of FSC Board of Directors 2007

Economic	Social	Environmental
Roberto Waack (Vice-Chairperson) Orsa Florestal Brazil South South America (male)	Martha Nuñez Fundación Ambiente y Sociedad Ecuador South South America (female)	Christian Vallejos Asociación para la Conservación de la Cuenca Amazónica Peru South South America (male)
Mario Abreu Tetra Pak International Sweden North Europe (male)	Chris van Dam Individual Argentina South South America (male)	Grant Rosomon (Chairperson) Greenpeace New Zealand North Oceania (male)
Alan Knight Individual United Kingdom North Europe (male)	Chris van der Goot (Treasurer) Ecohout Foundation The Netherlands North Europe (male)	Eric Palola (Vice-chairperson) National Wildlife Federation United States North North America (male)

Source: http://www.fsc.org/en/about/governance/board_directors accessed 21/06/07

Selection of Secretariat staff is expected to be geographically representative and non-discriminatory on grounds of gender, race or religion.²²⁰ The procedures associated with standards setting are also checked as part of the accreditation process to ensure their design and development has included a balanced consultative process.²²¹

Interests who are not members of FSC have equal access to participation in FSC's standard-setting activities as members. Internationally, the development of standards encourages all stakeholders, and the facilitator of the development process is expected to ensure that the full range of stakeholders affected by the standard participate in the consultative forums associated with standards development.²²² Extra provisions also exist for including stakeholders from the economic south.²²³ Non-members may also participate in technical working groups responsible for drafting standards.²²⁴ The same applies for non-members in national working groups as well as national advisory boards under the provisions that they do not outnumber FSC members (or FSC members' representatives).²²⁵

A study published in 2003 has shown that participants within FSC system are challenged by a number of equality-related issues (the study preferred the term equity).²²⁶ In terms of which countries have been getting certified, developed countries held 66% of all certificates and 80% of the certified forest area, whilst Africa, Asia and Oceania remained small players, with 8%, 4% and 5% respectively. Industrial forestry interests predominated, holding 35% of certificates covering 66% of the certified area. Most of these certificates were over 10,000 ha. Community businesses held 25% of certificates, but over only 3% of the certified area. Boreal and temperate forests dominated over tropical and sub-tropical forests. Although the data were collected in 1999, little had changed

by the publication of the study with the exception that plantations, particularly in developing countries, were beginning to challenge the dominance of certified natural (coniferous vs. broadleaf) forests.²²⁷ Despite its principles of participation FSC remained under-represented in the social chamber and it did not provide for the balance it intended should exist between each chamber and sub-chamber.²²⁸ This imbalance in interests had the potential to skew perceptions regarding forest management and certification issues away from developing countries in favour of the north, exacerbated by the fact that certification bodies were also based in the north.²²⁹ The study did acknowledge that FSC was taking steps to address these issues, particularly improving access to certification for small-scale forest operations and providing support for increased social interest participation.²³⁰

Interviews

The biggest single topic of debate regarding the equality of interest representation amongst informants concerned the role of NGOs in the FSC system. One NGO interviewee commented on the influence wielded by WWF across FSC at both international and national levels.²³¹ NGO interviewees admitted there was some truth to the perception that FSC had a strong environmental influence, but that this was offset by the structural reality, and that it was a balanced system.²³² What economic interests did not like was the fact that the three-chamber system prevented economic interests dominating.²³³ This balance was what made FSC the most innovative of the certification systems, and created the crucial difference from the others that equality amongst stakeholder groups meant that all participants had to make concessions.²³⁴

Business interests had a range of views on the significance of the influence exerted by NGOs over the FSC system. Supporters accepted that there was a

perception in the business sector that it had been set up by the green movement, but once companies got involved and the scheme got market traction, its NGO origins proved not to be the problem they thought it would be.²³⁵ Another economic supporter stressed the fact that no one interest could dominate the system, because the scheme had arisen at a unique point in history brought about by Rio, and its philosophy of sustainable development. Under this ideal it was not possible to have one group leading, and the others merely consulted.²³⁶ Sceptics were less enthusiastic. For one it was self-evident that the system was both promoted and supported by NGOs meaning there was less room for other interests to have their views taken on board.²³⁷ This was particularly the case for forest owners.²³⁸ Structurally they were always in a minority, since they only had one third of the votes.²³⁹ One business interviewee cited the significance of the role played by NGOs as the reason why other certification systems arose.²⁴⁰ This was a view shared by one interviewee from the third group of survey participants.²⁴¹

Two final observations are worth noting. According to one NGO participant the social sector's late arrival in the FSC system meant it had had to catch up with other sectors, but it was now moving at a greater pace than previously. This was interpreted as a positive sign of FSC's ability to balance interests.²⁴² Another NGO expressed concern about the lack of equality amongst stakeholders interviewed as part of the certification process. Because consultation had a much lower requirement for proper participation than standards setting, voices were not always weighted equally. Failure to accord equal weight to the views expressed during certification made it difficult to uphold the legitimacy of participation at the standard setting level.²⁴³ On a related theme, another NGO interviewee observed that it was hard for local stakeholder interests to penetrate the FSC

system if they were not part of the internal group. This was often the case in national initiatives, which were often led by WWF or similarly powerful groups. Not enough effort was made at either the Secretariat or Board level to bring interests in who did not represent the most noisy, internal interests.²⁴⁴

Evaluation

FSC has put considerable effort into ensuring its participatory structures provide for equality amongst its interests, but there is still a degree of asymmetry between its northern and southern members. Despite its stated intention of gender and regional balance within its structures, males still seem to dominate the Board, for example, as do the regions of South America and Europe/North America in the examples of Board representation provided. The effort that has been made by FSC in this regard should be acknowledged, as should the equality between members and non-members within its standards setting structures. The issue remains that developing, tropical, small-scale interests do not benefit from the system as much as large-scale companies from the developed, northern/temperate zones. It also seems undeniable that certain specific interests, are “more equal than others” within FSC system (most notably WWF). On these grounds, the score is consequently **medium**.

Resources

During the establishment period of FSC, much of its funding was derived from private philanthropic institutions and government agencies (see Table 4.4 below). The Austrian government was a major sponsor at the organisation’s inception. It had some unallocated funds it had initially intended to use for a national policy programme aimed at supporting the development of sustainable tropical forest management and restricting illegal tropical timber imports. This had been

abandoned when the Malaysian government objected and the possible GATT-related implications of restricting only tropical timber were considered.²⁴⁵ This money was channelled through WWF Austria, which had passed it on in turn to FSC.²⁴⁶

Table 4.3 Summary of donations made to FSC A.C. through to 1999 in US Dollars

Donor details	Amount
Austrian Government	890,310
European Commission - DGI	541,252
Netherlands Government - DGIS	501,815
John D. and Catherine T. MacArthur Foundation – USA	486,952
Ford Foundation – USA	302,488
WWF - Netherlands	237,269
Avina Foundation - Switzerland	119,970
J Paul Getty Wildlife Award – USA	100,000
Wallace Global Fund – USA	79,364
German Government - GTZ	62,023
Mexican Government – Sedesol	51,882
Rockefeller Brothers Fund – USA	50,000
Donations under \$50,000 each	220,034
Summary	
Governments	2,047,282 (56%)
Private foundations	1,038,774 (29%)
Other	557,303 (15%)
Total	3,643,359

Source: *Annual Report 1999*, p. 11.

More recently FSC's revenue has been derived through the increased commercialisation of services such as accreditation and trademark licensing, and these now contribute approximately 30% to the organisation's global annual budget (see Table 4.5 below).²⁴⁷ Accreditation fees are levied according to the scale and location of the operation, and the extent of its conservation set-aside areas.²⁴⁸ Currently, some 60% is derived from private philanthropic donors and government agencies.²⁴⁹

Table 4.4 Summary of FSC revenues in 1994, 1999 and 2004 in US Dollars

Year	1994	1999	2004
Membership fees	-	49,000	167,360
Accreditation fees	-	186,827	991,207
Donations	542,209	446,204	2,470,939
Non-specified	4,070	81,575	100,119
Total	546,279	763,606	3,039,441

Sources: *Annual Report 1999*, p. 10, *Financial Report 2003*, p. 1, *Financial Report 2004*, p. 1.

FSC provides resources for participation in a number of activities. Where a member is unable to attend the General Assembly due to economic constraints, they are entitled to seek financial support from the Executive Director.²⁵⁰ Support was first made available for under-resourced participants to attend the foundation assembly in Toronto, particularly southern NGOs, from both the emerging FSC and other large NGOs, such as WWF. Business and large NGOs covered their own costs.²⁵¹ In 2002 about \$120,000 was spent on travel, hotel and registration subsidies associated with the General Assembly to ensure that members who wanted to participate but were unable to afford the costs personally were able to do so.²⁵² Living and travel expenses associated with Board meetings are met by the association.²⁵³ At the third General Assembly it was agreed that Board members would receive a stipend to compensate for the number of days they spend attending meetings.²⁵⁴ National initiatives are expected to resource all aspects of their operations themselves.²⁵⁵ Interests consulted as part of the certification assessment process are generally not resourced.²⁵⁶

Interviews

A wide range of experiences were provided by both NGO and business interviewees concerning their participation in FSC on a national level. One common element amongst everybody interviewed was that their involvement had

been either self-funded, or their organisation had paid. This included interviewees from both developed and developing countries.

All NGOs commented on the range of costs, not just financial, associated with participation in the FSC system, although specific perspectives depended largely on the size of organisation, and levels of involvement.²⁵⁷ In terms of financial expenditure one NGO identified costs as being considerable.²⁵⁸ Another commented that half of their time as a paid campaigner had been taken up with the development of the FSC standard in their country.²⁵⁹ One interviewee, whose organisation was active in developing countries, indicated that it had covered the transportation and accommodation costs for an entire national initiative.²⁶⁰

Business interests provided two perspectives on the financial expenses associated with their involvement in FSC. One interviewee estimated that the money put into creating their country's national standard by business ran to hundreds of thousands of dollars in cash, and if other contributions were included, it was closer to one million. On one occasion the FSC Board had been flown in at a cost of \$24,000, although this was seen as a comparatively minor, but worthwhile expense.²⁶¹ One interviewee observed that since the company they worked for had already pursued ISO 14001 certification costs associated with FSC had been offset using the same management system.²⁶²

Financial expenditure was not the only cost mentioned by interviewees. Both business and NGO interests alluded to the time involved, at both the personal and organisational levels.²⁶³ Another NGO interviewee observed that participation in the certification debate generally had come at a cost to other campaign areas.²⁶⁴

Evaluation

Participation in the FSC system is costly in terms of a wide range of resources (time, money, technical expertise). These costs relate to participation in international and national assemblies, standards-related meetings and certification (for the company seeking certification and stakeholders consulted). The right for all members to participate in the General Assembly is constitutionally enshrined, and is provided for. Participating in FSC's regional, national and sub-national structures is less well resourced and varies depending on location. For members, the resources to participate internationally are high. For members-and non-members at the national level the provision of resources to participate hovers somewhere between high and medium. At the local level, where certification assessments and consultation of locally affected stakeholders occurs, little or no resource support is provided for participants. Across the system, the provision of resources for interests to be represented is **medium**.

Organisational Responsibility

In addition to being able to determine whether a governance system demonstrates meaningful participation in terms of the representation of interests, it is also necessary to ascertain whether the range of organisations involved in the system can be considered as acting responsibly. In the case studies investigated the relevant organisations involved in the system include the institution itself and its related entities (such as accreditation and certification bodies), and its constituents (members and non-members). In the context of the multiple levels of governance implicit in these case studies, responsibility relates to the institution itself, the participating organisations' responsibility towards the institution, other participants in the system, and their own constituents, as well as the public at large. The extent to which an organisation can be held accountable for its actions,

and the degree to which its activities are transparent, are both indicators of responsibility. *Accountability* is described firstly in terms of the mechanisms each of the system's participants have in place, according to their location within the system (i.e. the institution itself, its agents, or participating organisations). Secondly, comment is made, if necessary, in relation to specific aspects of behaviour where accountability has been questioned. *Transparency* refers to the availability of documentation and the general openness of the entity in question.

Accountability

All members of FSC are expected to support FSC as an organisation, as well as its aims, activities and P&C. Prospective members are also prohibited from publicly opposing FSC and existing members may also appeal an application submitted by a prospective member.²⁶⁵ A number of further provisions are placed on specific chambers. Economic applicants for FSC membership are expected to demonstrate an active commitment to the implementation of FSC P&C in their operations.²⁶⁶ Companies seeking membership are not permitted to develop a “model operation” in the absence of ensuring their whole operations conform to FSC requirements in due course.²⁶⁷ Certification bodies may also become members of the economic chamber.²⁶⁸ The environmental chamber is limited to law-abiding not-for-profit NGOs, whose governing bodies are independent from governments and which are renewed by periodic elections or appointment.²⁶⁹

The Board is accountable to the organisation's members and the relevant national authorities where the association is based. Its main oversight role is to ensure FSC adheres to its Statutes and meets the national legal and administrative requirements connected to the organisation's not-for profit status.²⁷⁰ Three directors retire at the end of each year, and are replaced by postal ballot or

General Assembly vote. The intention behind rotating the elections in this manner is to ensure continuity.²⁷¹ Directors are expected to make decisions based on the interests of FSC as a whole, as well as their respective sectors, but not the organisation they come from.²⁷² Criticisms have been raised in the past regarding procedural irregularities in decision making.²⁷³

The By-Laws forbid the Secretariat from undertaking any activities in a country or a region without first consulting the appropriate local FSC body.²⁷⁴ The Secretariat came to grief in 2001 over its behind-the-scenes negotiations with the provincial government of Ontario, which had threatened the successful completion of the regional standards under development elsewhere in Canada, especially British Columbia.²⁷⁵ The Policy and Standards Unit is responsible for overseeing and managing the organisation's international framework of policy and standards development, and provides advice on the policies and standards once they are developed.²⁷⁶

In forest certification there is an expectation that the certification process is independent of the first and second parties associated with timber -- the seller and buyer. The certification body is meant to act as an independent third party (hence the term 'third party certification'). Certifiers themselves also need be independently accredited. Previous business practice in which a unit from within FSC itself accredited certifiers undertaking assessments under the scheme's own standards generated accusations that the FSC was effectively its own accreditation body.²⁷⁷ Responding to such kinds of criticism in 2002, it commenced the process of preparing its Accreditation Business Unit (ABU) for establishment as an independent legal entity, the intention of which was to facilitate "a genuine separation of FSC's accreditation role from its standard-setting function."²⁷⁸ It

was also to “preclude conflict-of-interest challenges.”²⁷⁹ After the 2002 General Assembly the organisation began the process of revising its accreditation procedures against the ISO/IEC guides and standards. Certification bodies were required to update their practices to operate under the revised standards. In 2004 the ABU’s revised Accreditation Programme underwent an internal audit and peer review of accreditation procedures by the ISEAL Alliance against the ISO/IEC Guide 17001.²⁸⁰ In 2005 the Programme’s staff auditors were certified under the auspices of International Register of Certificated Auditors.²⁸¹ Accreditation Systems International (ASI) was created by FSC as a separate legal body, functioning as a for-profit business and commenced operating the organisation’s existing Accreditation Programme in 2006.²⁸² ASI is also governed by a quality management system, which covers the procedures associated with the accreditation of certification bodies and follows the relevant ISO/IEC terms and definitions.²⁸³

Accreditation usually lasts for five years. Once they are accredited, certification bodies undertake conformity assessments against the relevant standard and issue what are effectively ‘certificates of conformity’ to a given standard. Looking at accountability within this aspect of the FSC system in vertical terms (i.e. upwards and downwards within the programme itself), the responsibility is on the certification body to ensure that the conditions of its accreditation are met. Any non-compliance during this period can result in the issuing of a “corrective action request”, which must be addressed within a given timeframe, or the Board can either fine the offending party or withdraw accreditation. Certificates are also issued for five years.²⁸⁴ Similar sanctions

apply to the certified entity. Here, compliance is to FSC's P&C, and "major failures" will lead to de-certification.²⁸⁵

In terms of horizontal accountability (that is outwards from the system to the broader community) it should be noted that one criticism raised by *Trading in Credibility* was that FSC had not specified what was meant by major failure, leading to disputes with certifiers over what had, and had not been addressed.²⁸⁶ This has now been addressed in the relevant FSC standard.²⁸⁷ Certifiers were subjected to sustained criticism in the early years of FSC's development.²⁸⁸ Standards now exist requiring certification bodies to identify any issues that are "difficult or controversial" in a region where a certification assessment is to take place. They are required to consult with stakeholders prior to the certification audit as to how the issues should be addressed in the evaluation.²⁸⁹ Certifiers are held accountable for their activities through compliance with the provisions laid down in the relevant standards, and certifiers have been suspended.²⁹⁰

FSC consolidated its guidelines on the conduct of national and regional initiatives into one manual in 1998.²⁹¹ This is a controlled document and its recipients are kept on a register and sent updates to be inserted in the manual if procedures change.²⁹² The various components making up a national initiative (contact persons, working groups, advisory boards and national offices) are governed by a series of formal Agreements. These Agreements detail the rights and obligations of both parties one to another relating to services, structures and policies.²⁹³

Forest owners outside FSC system view environmental and social interests as dominating FSC system, undermining its credibility and legitimacy. This perception is further reinforced by the absence of state legitimisation, leading to

the belief there is an accountability deficit within the system. In defence of the system, the observation has been made that FSC has responded to such accusations by promoting accountability and transparency as normative features of the system.²⁹⁴

Interviews

Two themes emerged in the comments made by those interviewed for this study. Firstly, concern was raised regarding what was seen as the unduly close relationship between FSC, accreditation and certification bodies, and standard setting. Secondly, further comments were made on the relationship between FSC and WWF.

One NGO interviewee considered it to be a considerable weakness of the FSC system that the institution itself was the highest standard-setting authority, and effectively accredited its own certification bodies. Far too much discretion was left to the certification bodies, which varied greatly amongst themselves and had widely divergent interpretations of their requirements. This weakened the system considerably, given that the majority of FSC certificates were issued in the absence of national standards.²⁹⁵ Another NGO, and one business interviewee, expressed concerns about the leeway afforded to certifiers, and the blurring of roles on the national level.²⁹⁶

One interviewee commented on the personal internal conflict they had experienced in a previous job as a member of a certification assessment team. On the one hand the interviewee had wanted to assist local communities and stakeholders to build their capacity to interact with the certification system more effectively, particularly in making sure they had a say in what was happening. But as a team member with a background in forest engineering and ecology it was

their role to focus on helping the company, even if FSC was about including workers and adjacent communities. The interviewee had found it difficult to balance the two needs.²⁹⁷

One NGO interviewee commented on the indirect financial benefits that had accrued to WWF as a result of their relationship with FSC.²⁹⁸ A second NGO interviewee commented that WWF was now increasingly distancing itself from FSC, as it has become uncomfortable both setting up and participating in standards setting.²⁹⁹ Another interviewee, from the third group of informants, commented how WWF had both organised and directed the development of FSC in their country, which had alienated private forest owners from FSC.³⁰⁰

Evaluation

FSC has an impressive array of mechanisms for both ensuring, and demonstrating that the institution itself is accountable at all levels, from the General Assembly to the national initiatives, and to both members and non-members. Nevertheless, the relationship between certifiers and various parts of the system (clients, FSC itself, standards bodies) have exposed the system to claims of conflict of interest in the past. FSC's efforts to ensure accountability across the system reflect its responsiveness to external criticism. However, FSC's performance is undermined by the role played by NGOs in the past, most notably WWF, which has not been required to account for itself to the same degree as FSC. This represents a flaw in FSC's accountability mechanisms, which needs to be addressed to ensure that powerful interests do not wield undue influence in the future. An otherwise high score is therefore **medium**.

Transparency

FSC operates in two official languages, Spanish and English. Effort is also made by FSC on the local level to address stakeholders in their local language.³⁰¹ For transparency purposes, all relevant policy documents are listed and made available on FSC A.C. website, and feedback on policy is actively solicited from the membership. The 2002 General Assembly also agreed to the institution of a consistent process to facilitate members' input on policies as they are being worked on.³⁰²

National initiatives must engage in their activities in a participatory and transparent manner. This is identified as being important for FSC to maintain its credibility as a total system. Meetings and subcommittees are open to all stakeholders, members or otherwise. Non-members may attend as observers and may comment on document drafts on the understanding that they do not impede or undermine progress.³⁰³ Procedures effecting any internal changes to national initiatives must be outlined in the Statutes or By-Laws, which govern them.³⁰⁴

In 1999 Interim Board member Centeno cited the Flor y Fauna case “as a clear example in which FSC has been unwilling or unable, to comply with basic principles of transparency.”³⁰⁵ *Trading in Credibility* also identified a number of problems with the public reporting associated with certification, albeit before the publication of the relevant standard.³⁰⁶ Since late 2004 certification bodies have been governed by a standard, which details their public reporting obligations.³⁰⁷ *Trading in Credibility* also claimed flaws in the chain of custody system, which could be easily abused, also had the potential to mislead consumers over the claims made on FSC's labels.³⁰⁸ Further standards now exist for the purposes of regulating the production of forest certification and chain of custody reports upon

which the certification body bases its decision to certify the relevant entity.³⁰⁹ Standards also exist concerning the transparent sourcing and use of controlled wood, the purpose of which is to demonstrate that wood has not been harvested illegally, or from controversial sources.³¹⁰ A standard also covers the “truthful application and use” of FSC’s trademark and logo to avoid false claims, which might damage its reputation.³¹¹

In 2002 the General Assembly required FSC to identify and recommend best practices for the stakeholder consultation, in collaboration with the membership, and with the approval of the Board.³¹² Strategic decisions, regarding national and regional matters were also to be made “based on open and transparent consultation with FSC members and the National Initiatives of the region.”³¹³ The motivation behind these requirements was, apparently, to “strengthen the quality, consistency, continuity and effectiveness of FSC system’s stakeholder consultation and mechanism procedures.”³¹⁴

Although all certification programmes accept the concept of transparency, it has been claimed that industry-dominated schemes remain limited in terms of transparency, whereas FSC requires more disclosure.³¹⁵ However, it has also been claimed elsewhere (by the same author) that although it makes extensive use of stakeholder-driven models, “there are places where FSC system remains strikingly non-participatory and non-transparent, particularly at the level of the individual certification.”³¹⁶

Interviews

Comments made by interview subjects cover a range of issues concerning transparency with FSC. Interviewees from the third group of subjects, as well as business informants were concerned at the lack of clarity in the relationship, once

again, between NGOs (WWF in particular), FSC, and the World Bank. Concerns were also expressed about the lack of transparency in the use of interim standards on the national level.³¹⁷

NGOs commented on both the benefits and disadvantages of the high level of transparency within the system. One interviewee felt that criticism, and critics, of the system were welcomed by FSC, and that as soon as a problem was identified it was addressed. The down side was that it was not always possible to have a speedy resolution of the problem at hand, which could be frustrating, but was a necessary part of being transparent. This was important because such transparency increased the level of trust in the organisation.³¹⁸ A second NGO interviewee felt that FSC was open to the participation of stakeholders and willing to learn from what they had to say, rather than merely setting the standard and subsequently seeking stakeholder support.³¹⁹ Another NGO interviewee felt this very openness was at times a disadvantage for FSC, as it meant that the system was both more exposed to criticism than other systems, and more likely to have its ideas stolen.³²⁰ One NGO interviewee made the specific comment that they were not sure how effective email communication was as a tool for stakeholder participation. Although it was a very transparent method of reaching stakeholders, it only worked for those that had access to the Internet.³²¹

Finally, one interviewee from the third group of subjects commented on the tension, which had existed at FSC's foundation assembly between the desire amongst organisers to maintain a balance between participating interests and transparency. People had heard about the event and turned up on the day uninvited, only to be turned away. This had led to accusations of a lack of transparency, but as so much effort had gone into ensuring participating interests

were balanced in what was a very sensitive environment, organisers had decided it was necessary to restrict access.³²²

Evaluation

Generally speaking, FSC has put in place a number of provisions to ensure that the institution, and those associated with it operate in a transparent manner. The institution's documentation, and those of its associates, such as certification bodies (confidentiality notwithstanding), is readily accessible. The public nature of the debates around controversial topics affecting FSC certification and its stakeholders is also healthy. The very high degree of transparency at the international and national levels of the institution itself is partly offset by transparency issues at the individual certificate level, particularly those assessed against generic standards. The nature of the relationship between FSC, WWF and The World Bank, and the exact motivations underlying it is also not entirely clear. Nor is the relationship with, and expectations from, donors, although the publication of gifts received is to be commended. Taking these issues into consideration, the overall transparency across the system (as opposed to specific components) is **medium**.

Decision Making

Decision making is an essential part of the deliberative process, and is demonstrated by three indicators. Firstly, decision making needs to be *democratic* in the basic sense that those involved in deliberations are afforded the opportunity to exercise their power of choice regarding a particular decision. Here, it is not a question of the type of democracy exercised (aggregative versus deliberative, or participatory versus representative, for example), but whether the institution is functionally democratic. Secondly, even if the emphasis on deliberation in

contemporary governance encourages more collaborative approaches to decision making, it is still necessary for a governance system to employ procedures for reaching *agreement*. Similarly, an emphasis on reaching agreements through collaborative decision making does not mean that conflicts or disagreements never arise. Here again, the indicator is not used to judge the value of one method of reaching agreement over to another (consensus versus majority voting for example), but whether these methods function effectively. *Dispute settlement* mechanisms are also necessary when agreements cannot be reached and the mechanisms and procedures (formal or informal) for addressing grievances are also evaluated. These three indicators together demonstrate the level of performance of the decision making processes within the governance system under investigation.

Democracy

The purpose of FSC's tripartite chamber system is to "maintain the balance of voting power between the different interests, without having to limit the number of members."³²³ In each chamber the membership is further divided into northern and southern sub-chambers with 50% of the voting power each.³²⁴ All members of FSC are represented equally through a weighted voting system.³²⁵ Individual members, to avoid undue influence, are restricted to 10% of the voting weight in each sub-chamber.³²⁶

Commentators have a range of views on democracy within FSC system. Beyond their promotion of environmental values FSC's criteria have been described as advocating democracy and human rights.³²⁷ *Trading in Credibility* on the other hand has criticised FSC as functioning "poorly as a democratic membership-based organisation."³²⁸ This was particularly the case for social

interests at all levels of decision making.³²⁹ The report acknowledged that the strategy contained much of value but remained critical of the fact that local communities and indigenous people continued to wield less influence in FSC decision making processes. Procedures remained discriminatory against weak stakeholders and biased in favour of certifiers and their clients.³³⁰ Small forest owners have accused the FSC of being biased against their needs.³³¹ Further arguments have been made about the appropriateness of placing small forest owners in the same chamber as industrial forest owners, supply chain companies, and consultants with an overtly environmental interest.³³²

Interviews

Interviewees had mixed views regarding the nature of the democratic processes within FSC. NGOs were divided amongst those who were impressed, and those who were less enthusiastic. One NGO, who had participated for the first time in a General Assembly, was initially dubious that such a chaotic system of decision making would ever produce anything. They were more used to opposing parties simply trying to convince each other of the merits of their viewpoint, but considered the approach whereby motions were discussed and amended in all of the chambers as particularly innovative.³³³ Another felt FSC was so democratic as to be “almost non-functional”, even if it was a good way of dealing with previously conflicting parties. Board elections in particular were cumbersome, and whilst Board representatives might meet the political requirements of their constituents, whether they were actually competent to manage the organisation, or understand forest management, was another matter.³³⁴ Other NGOs were critical of procedures on the national level.³³⁵

One business interviewee felt that FSC went against all the basic tenets of Western democracy in that there was no division between executive, legislative and judicial powers. The Board essentially exercised all three simultaneously, as it approved national standards, determined who could become members, appointed certifiers and acted as the final arbiter in disputes.³³⁶ Other business interviewees shared similar concerns about the democratic processes within FSC. One felt FSC went against the provisions of “normal democracy.”³³⁷

Views from the third group of informants varied. One presented the critical business perspective, that there was no democratic precedence for the three-chamber, North/South arrangement. They interpreted FSC’s decision making procedures as a tactic to disenfranchise forest owners, and objected to environmental NGOs having the power to determine the conservation obligations for private landowners.³³⁸ Another by contrast interpreted the precedent of the three-chamber distribution of power between the forces as being derived from the “Brundtland-type” sustainability model. Although FSC’s legitimacy could be questioned, for all its faults, the democratic procedures under which it operated were far more legitimate than those that occurred within the nation-state and similar forest-related governmental processes.³³⁹

Evaluation

The decision making between members within the in FSC system appears to be highly democratic. Procedures appear to be capable of balancing the divergent objectives of environmental, social and economic interests to deliver a sophisticated ‘triple bottom line’ model of sustainability, which accommodates North/South, and numerical, inconsistencies. A similar degree of sophistication also exists at the national initiative level, although some interviewees questioned

this. It should also be noted that there are criticisms amongst commentators concerning the level of democratic input for small forest owners and social interests. Overall, democracy in the FSC system is somewhere between medium and high, but since the method of evaluation used here does not take half-measures into account, it is rated **medium**.

Agreement

As a norm, General Assembly decisions are made by consensus, understood as the absence of sustained opposition, but not requiring unanimity. In order for a motion to move forwards to a vote on the floor a quorum of 50% + 1 of members present and voting within each of the sectoral sub-chambers is first required, followed by a simple majority approval. Once on the floor, a motion again requires 66.6% approval, but this time of all the members present and voting.³⁴⁰

The Board also makes decisions by consensus. If this is not possible, a vote in the affirmative requires six members, with one positive vote from each chamber representative as a minimum requirement for cross-chamber support.³⁴¹

National and regional initiatives generally use similar consensus and voting provisions, but there are variations.³⁴² However, they are not bound entirely by consensus provisions. The selection of National Advisory Boards for example may be through either consensus or other democratic decision making procedures.³⁴³ Working groups must have fair decision making procedures, and it is expected that decisions should be reached by consensus. Where this is not possible, decisions must be made democratically, although it is not specified how.³⁴⁴

FSC has been described as the most advanced of the certification programmes in the use of consensus-based decision making, but it has also experienced some

difficulties. There have been instances in Canada when FSC initially accepted what were interpreted as consensus outcomes, but which had not included certain forestry interests. It has subsequently amended its understanding of consensus and now expects industry acceptance of the standards developed.³⁴⁵ Consensus-based decision making within the system, it has been claimed, stands in contrast to “the authoritarian and majoritarian tendencies of modern electoral politics [based on] appealing to and promoting the interests of specific sectors.”³⁴⁶

Interviews

Comments concerning how agreements were reached within FSC were wide ranging. One business interest commented that it was interesting, if accidental, that FSC’s use of consensus met with the requirements of global trade rules. This had arisen more from a general philosophy that if power was to be transferred from governments to other groups, there was a need for a greater degree of public legitimacy. This was derived from the adoption of consensus decision making rules, which were designed to represent what most of the participants wanted and to avoid conflict.³⁴⁷

NGO interviewees were generally positive recognising that the use of consensus demonstrated FSC’s advanced thinking, but it had its disadvantages because it could be both time-consuming and costly.³⁴⁸ Another NGO thought that having both the three chambers and consensus within FSC was revolutionary. By bringing different interests around the table FSC provided an opportunity at both the international and national levels for people to discuss things they had never discussed before, and to understand problems from other peoples’ perspectives. Recognising different interests and encouraging dialogue had a significance that went far beyond certification.³⁴⁹

One interviewee from the third group of subjects commented in some detail on the motivations behind using consensus in FSC. They had noted a strong degree of reluctance amongst participants to resolve conflicts by voting from its beginning. Participants had been more interested in developing joint solutions that everybody could endorse, and processes to achieve this had evolved over the organisation's history so that it was very rare that votes were now taken. Stakeholders tended to sit together until they had an agreement on the necessary solution. If there was no solution, there was essentially no outcome. Although by definition the outcomes of such discussions resulted in the lowest common denominator, they did not result in compromises, since no participating sector would ever agree to anything that compromised its needs. The real difference with reaching decisions in FSC was that no stakeholder sector could control the process. Participants had learnt to accept that they were not in control of the situation, which had been a useful lesson learnt.³⁵⁰

Evaluation

The methods used for reaching agreement within the FSC system are interesting. The emphasis amongst those interviewed concerned FSC's use of consensus decision making. However, it is debatable whether the general practice of 'consensus' within the system is not in fact a form of qualified majority voting, which merely requires a higher percentage of agreement than in conventional simple majority systems. The presence of the 'sustained opposition clause' would appear to act as a catalyst for returning to the negotiating table. The added safeguard at the international level of ensuring sub-chamber support also appears to facilitate decision making by ensuring certain motions never make it to the floor, ensuring a greater likelihood that those that are agreed to. This ability

within FSC's deliberative processes to move between consensus and voting may well be the key to the success of the system's decision making processes, giving it a score of **high**.

Dispute Settlement

FSC's Statutes and By-Laws obliged the Board to institute a Dispute Resolution and Accreditation Appeals Committee. Its first role is to handle disputes and grievances raised by members concerning the performance of the Board, the Executive Director and the Secretariat.³⁵¹ Its second task is to review decisions regarding the accreditation of certification bodies, and to report to the Board on the extent to which certification bodies adhere to the P&C and the guidelines covering their activities.³⁵² Non-members must have their complaints presented by a member.³⁵³ The General Assembly is referred to in the By-Laws as the final authority in dispute resolutions.³⁵⁴

An Interim Disputes Resolution Protocol was developed in 1998, which explains the procedures for resolving disputes.³⁵⁵ FSC identifies its grievance procedures as consisting of four levels: resolving a complaint, resolving a dispute, formal dispute resolution and accreditation appeals. Non-members must contact an FSC member to have their dispute brought to FSC, and may be asked to pay costs.³⁵⁶ Decisions regarding accreditation may also be appealed, but again non-members must go through a member to do so.³⁵⁷ In the case of appealing a certification decision, certification bodies have their own independent review committee, and the complaint should be directed there in the first instance.³⁵⁸

Complaints and dispute mechanisms also exist for the development of new international standards. Complaints regarding content are addressed either at the time, or advice is provided on how to resubmit concerns in the standards revision

period. No further method of appeal is accepted. Procedural complaints if unresolved informally proceed to the Protocol.³⁵⁹ National initiatives must also establish their own grievance procedures, applicable to their particular circumstances.³⁶⁰ National offices provide the structure through which dispute resolution processes occur.³⁶¹ All certification bodies must develop their own dispute resolution mechanisms. When a dispute occurs on a national level the national initiative must be consulted as part of the process.³⁶² Stakeholders must also be informed during forest management assessment that the certification body has mechanisms for resolving disputes and handling complaints.³⁶³

More elaborate dispute provisions appear in the standards covering controlled wood. Here wood cannot enter the certified supply chain from forest management areas where civil rights have been violated, or substantial -- and unresolved -- conflict exists amongst indigenous peoples or civil society groups regarding long-term tenure or use rights.³⁶⁴ Stakeholders must be fully informed and a process put in place for evaluating and addressing stakeholders' concerns.³⁶⁵

FSC's procedures have been heavily criticised in *Trading in Credibility*.³⁶⁶ Academic scholars also question FSC's capacity to settle disputes at the national level, leading some to assert "there is a general consensus that [the system] is not working well and needs substantial reform."³⁶⁷ Other commentators also consider FSC procedures to be cumbersome.³⁶⁸ The point has been made that dispute resolution within FSC does not differ greatly from informal procedures used by state-based legal systems, which are themselves restricted in terms of who may participate and who may initiate procedures.³⁶⁹ This may be attributable to the fact that the Protocol was prepared on behalf of FSC by a law professor.³⁷⁰ Neither the formal nor the informal processes within FSC system are considered as being

adequate to the task of handling “the pervasive benefit-of-the-doubt dynamics that are likely to characterize many certification processes.”³⁷¹

FSC acknowledges that dispute resolution is complex, difficult and unclear.³⁷² A revision process commenced in 2004.³⁷³ The Protocol remains on the FSC international website as the basis for managing grievances, and is identified as such in core documents.³⁷⁴ The problems associated with its dispute mechanisms have led one commentator to suggest that the system’s consultation procedures need improvement, as does the communication between FSC and its stakeholders.³⁷⁵

Interviews

Those interviewees who commented on how FSC handled disputes were either critical or ambivalent. One business interviewee observed that there was no truly independent dispute settlement mechanism within FSC, as was the general norm internationally, and as expected under WTO.³⁷⁶ Another observed that if a given forest owner is unhappy with a decision made by a certification body the highest court of appeal was effectively FSC’s own Executive Director. Such an arrangement was both biased and lacking in objectivity. They added that as soon as the forest owners in their country had understood this, they had decided there were no possible circumstances under which they could join FSC.³⁷⁷ A third business interviewee had expressed frustration over FSC’s inability/unwillingness at the international level to resolve informal disputes between industry and NGOs nationally.³⁷⁸ One final business interviewee had commented that the only way to solve disputes in the early days of FSC had been through continuous dialogue.³⁷⁹

NGOs were generally more interested in the value of FSC as tool to solve deeper disputes regarding land use and tenure, rather than its internal mechanisms

for resolving disputes. For one, the significance of FSC lay in its P&C, which provided a basis for discussions about land rights and ownership.³⁸⁰ Another thought FSC had been successful in this regard on the national level.³⁸¹

Evaluation

FSC's Dispute Resolution Protocol is not well regarded by commentators or interviewees, and some sources argue that it is not particularly effective. Its complexity, legalistic nature and cumbersome rules are the main criticisms. These aspects appear to hamper rather than help communications between FSC and those complaining. More research is needed to match the overall number of disputes with those, which are settled, but the contribution of the current system to productive deliberation would appear to be **low**.

Implementation

Implementation refers to the process of putting commitments into practice.³⁸² However, the fact that a system has created policies or standards does not automatically demonstrate productiveness. Rather, implementation should result in *behaviour change*, and in addition also *solves the problem* for which the institution was created. Finally, these changes in behaviour, the problem solutions, and the institution itself need to be *durable*. Here durability is interpreted as referring to longevity, as well as flexibility and adaptability (whilst still ensuring a degree of consistency). These three indicators together demonstrate the extent to which implementation within the governance system can be considered productive, equated in this instance to effectiveness.

However, it is also important to bear in mind that factors external to the governance system also impact on the success of implementation. Governance systems stand little chance of improving situations where legal requirements and

enforcement capacities are weak, and where social, economic and political contexts beyond the institution itself impede successful implementation.³⁸³ In the case of certification, the point has been made that market-based approaches have a limited impact on the problems of forest degradation and deforestation. From this standpoint the contribution of each of the case studies should be seen as partial, and relating more to the extent to which what they have to offer does in fact complement the range of other initiatives aimed at improving forest management practices.³⁸⁴

Behaviour Change

FSC has been described as having a “norm-building and behavioural effect in the field of sustainable development.”³⁸⁵ Its governance arrangements utilise both top-down and bottom up processes of information sharing, created within networks, which foster organisational learning and mobilise resources amongst stakeholders to further improve organisational structures. It is the very diversity of the actors involved which facilitates these learning processes.³⁸⁶

The institution has also been portrayed as having had a beneficial influence on the relations between the various stakeholders involved in forest policy discussions, notably in those countries where forest governance is weak.³⁸⁷ In the case of South Africa, for example, FSC certification has been described as bringing previously excluded stakeholders into the national forest dialogue. Elsewhere, in countries such as Bolivia, it has worked as a complementary agent in encouraging greater compliance with national forestry regulation, or, as in the case of Mexico, has influenced the development of national regulation, which reflects FSC standards.³⁸⁸ The continued support and collaboration of environmental and social interests, the endorsement of some state interests, and its

influence on national forest policies are all indicators of FSC's success in this regard.³⁸⁹

The need for collaboration regarding the development of solutions to contentious issues within FSC system appears to discipline the parties involved. This may be attributable to the development of mutual trust and the promulgation of norms concerning what is understood as appropriate behaviour.³⁹⁰ Where conflicts do arise they are more over problem solutions than definitions or diagnoses, which are generally shared. However there is anecdotal evidence of increasing tensions over FSC's levels of compliance.³⁹¹

Initially, FSC's broad stakeholder involvement and strong environmental social and auditing standards gave the system the potential to address a number of gaps in the existing global forest regime.³⁹² This original capacity of FSC to deliver on social and environmental needs may have come at the expense of economic interests however.³⁹³ The emergence of competitor schemes has marginalised FSC in some countries, as forest owners have migrated to these systems, reducing FSC's abilities to set the standard for forest management globally.³⁹⁴

Finally, although it is acknowledged that the impact on sustainability as whole arising from FSC certification in developing countries may be small, there may be indirect impacts on the behaviour of non-certified forest owners as they learn from certified owners around them. Certification may therefore reinforce the development of SFM.³⁹⁵ However, the messages being presented to forest owners about certification may be mixed.³⁹⁶

Interviews

The comments made by interviewees focussed around FSC's contribution to behaviour change in the areas of organisational learning, economic and ecological sustainability and standard setting. Views were both positive and negative.

NGOs had contrasting views on the impacts of FSC certification on the behaviour of economic interests. One was concerned about FSC's fast-growth strategy and the WWF/World Bank Alliance. Certification had proliferated too quickly for forest owners to accept management standards and change their forestry practices. Things would have been different if certification had been allowed to develop at a natural pace.³⁹⁷ Another NGO observed that FSC had contributed to what had been an incremental change in the forestry community's understanding of sustainability away from equating it to sustained yield to including environmental elements, and now to accepting the idea social sustainability. This was directly attributable to FSC Principles Two, Three and Six.³⁹⁸

In terms of the organisational learning associated with FSC one interviewee from the third group of subjects was particularly enthusiastic about how FSC itself had undergone a process of change regarding the significance it attributed to stakeholder participation. Initially it had needed to both learn who its stakeholders were, and subsequently how to communicate with them, and ensure their participation was meaningful. This in turn had placed FSC's constituents on a steep learning curve before they could learn to trust the deliberative processes without knowing what the outcomes would be, or how far they could push them.³⁹⁹

Evaluation

There is some evidence that FSC certification has changed the behaviour of forest managers, and generated knock-on effects outside the system, but there is not much more than can be said on the data available, much of which is somewhat equivocal. Basing an evaluation on this evidence could only result in a low score. There is more evidence that FSC has influenced national forest policy development either directly or indirectly, and reduced forestry-related conflict. It has also influenced the behaviour of other certification schemes, particularly the attention they now pay to participatory decision making. On these two points, FSC's contribution to behaviour change is high. The biggest contribution to behavioural change that the FSC system as a whole appears to have made is to the social, organisational and policy-related learning of its participants. This has contributed to productive deliberation in the sense that actors understand one another and FSC system better, and consequently have the capacity to improve the system and policy decisions made. Erring on the side of caution, it is probably best to score FSC's impact on behaviour change as **medium**.

Problem Solving

The emergence of FSC has been linked to the failure of state interests to deliver on binding regulations and the need for forestry companies to find new allies as a possible alternative to re-regulation. FSC provided a problem solving environment more suitable to creating regulation than that afforded by intergovernmental agreements.⁴⁰⁰ It has achieved this through the interrelated mechanisms of consensus-based standards setting, compliance verification through independent third parties, developed within a private governance model, which exceeds those used in the oft-criticised world of public governmental forest politics. These

methods have led it to be labelled a “solution facilitator in global environmental politics.”⁴⁰¹

Although the FSC system has attempted to integrate the social, environmental and economic aspects of SFM, some doubt has been expressed that this has been a success in developing countries.⁴⁰² As of June 2005 FSC-certified sources constituted 5% of world market share, and 1.36% of global forest cover. These are disproportionately located in North America and Europe (79.2% of certified area), whilst Africa, Asia, Oceania and Latin America only represent 20.8%, and figures are not greatly different for chain of custody certificates. Given the lack of economic and technical capacity in tropical countries and the increased costs associated with tropical forest certification in comparison to temperate or boreal forests, few tropical producers have been able to earn premium, or transfer costs to consumers and retailers, as a result of certification.⁴⁰³ The impact of FSC certification on the sustainable use of tropical forests is therefore likely to be small. This is compounded by the fact that most certified timber is destined for export markets, whilst only 30% of all tropical timber is exported. This is partly offset by the fact that some of FSC’s certified tropical forest countries such as Brazil export largely to the US and Europe where demand for certified timber is high. But with only 10% of all tropical timber being certified, failure to address local timber consumption will continue to make the contribution of certification to sustainability very small.⁴⁰⁴ It has been asserted that the majority of tropical forests certified have been done so under the auspices of FSC accredited certification bodies. Although certification generally benefits broader conservation objectives for the tropical regions only in production forests, FSC’s

contribution to sustainable production has still been identified as a “major achievement.”⁴⁰⁵

Even in significant supply regions such as Europe, the contribution of certification generally to ecological sustainability has been questioned. Empirical research demonstrates that an increase in certification in Europe would not result in a substantial modification in forest management in that region.⁴⁰⁶ One study has suggested however that European forestry practices are likely to improve subsequent to FSC certification.⁴⁰⁷ This finding is reinforced by other research, which found that FSC certification in Europe had increased stand diversity and tree species as well as improving the protection of rare and threatened species and their habitats, and reducing chemical use.⁴⁰⁸ In the case of Germany for example, the fact that 37% of FSC certified forest operations studied did not have to change their management procedures could be interpreted as providing evidence either way, depending on perspective.⁴⁰⁹ In the Nordic countries, where large areas are certified either under FSC or PEFC, FSC certification has been less effective than PEFC in promoting SFM amongst small-scale, as opposed to large-scale forest owners.⁴¹⁰

One of the ways in which forest certification can be considered effective is the extent to which it improves on-the-ground practices.⁴¹¹ On a performance level, FSC certification has been characterised as being more intrusive and rigorous regarding forest management and environmental sustainability than the industry-dominated schemes.⁴¹² On an environmental level, this relates particularly to the protection of old growth forests and the maintenance of biodiversity, as well as restrictions on the use of chemicals and the size of clearcutting operations and an outright ban on genetically modified organisms.⁴¹³ Its standards in relation to the

conservation of biological diversity have been emphasised as being the most rigorous of all the certification programmes. Its activities in the tropical regions are particularly important, as the need for biodiversity conservation in these regions is the greatest.⁴¹⁴ FSC has also been described as more demanding than competitor schemes regarding social issues, particularly the protection of workers' and indigenous peoples' rights, as well as enhancing community wellbeing by sharing the benefits arising from the use of forest resources.⁴¹⁵ For FSC to retain the confidence of the environmental and social movement for the future, however, it needs to enforce stricter implementation of its procedures.⁴¹⁶

Interviews

Interviewees expressed a number of views about FSC's problem solving capacities. The three most significant topics of discussion concerned the role of certifiers, the scheme's ecological problem solving abilities, and national standards. NGOs had both good and bad things to say about certifiers. One felt that FSC was the world's most developed certification system, and its extensive documentation resulted in the imposition of reliable corrective action measures by certifiers.⁴¹⁷ This view was echoed by one business interviewee who considered the role of the certifiers to be professional in their conduct of audits. This contributed to a well-functioning system, which was capable of identifying weaknesses and improving them accordingly.⁴¹⁸ Two NGO interviewees did not agree that the implementation role played by certifiers was a good one.⁴¹⁹

Views across the three groups of interviewees concerning FSC's abilities to solve ecological problems were equivocal. One business interviewee felt that FSC standards focussed too much of the protection of natural forests at the expense of other ecosystems.⁴²⁰ One NGO wondered whether all the effort that had gone into

developing certification -- and FSC in particular -- as a tool to improve forest management had resulted in more attention being paid to the tool itself than its goal.⁴²¹ Two subjects from the third group of interviewees commented that the majority of content within FSC's standards concerned environmental compliance, which had lost it support from forestry interests.⁴²² However, both business and NGO interview subjects were concerned about the application of generic standards in countries that lacked national initiatives.⁴²³

One interviewee from the third group of subjects believed FSC had contributed to solving global forest problems beyond its original expectations. Although the original idea had been to concentrate on the tropics, changing political conditions had overtaken and FSC had ended up having a world focus. In this regard it was initially more significant than its competitor schemes, which, with their regional orientation, were not originally GATT compliant. This had given it an influence over the norms of SFM, as well as being able to reach aspects of the timber trade and forest governance that governments were unable to. FSC nevertheless still needed supportive governments to work best and solve problems.⁴²⁴ Both business and NGO interviewees also expressed concerns about the costs and the time involved with FSC certification. Doing things the right way could take forever, and by the time the perfect standard was developed there could be no forest left.⁴²⁵

Finally two interviewees from the business and NGO sectors commented that FSC had been less successful in improving forest management than they had originally thought it would be.⁴²⁶ But it had still made a difference, by opening a political space for dialogue particularly from an environmental and social justice perspective.⁴²⁷

Evaluation

It is fair to say that FSC has had some positive impact in addressing the problem of deforestation, but given the proliferation of the scheme mostly in the world's non-tropical regions, it has not been extensive. Nevertheless it remains the most widespread certification system in the tropical regions, and consequently has had some impact on the conservation of biological diversity in some production forests there. Here evidence for the temperate zones is more equivocal – and disputed. Overall, however, it can be said that FSC has brought more stakeholders into the policy debate regarding SFM, and has increased the access of social and economic interests to the benefits of certification, albeit only partially. Recognising that there are external factors beyond control of non-state agencies such as the FSC, and the scale of the problem of global deforestation -- particularly the illegal timber trade -- FSC's contribution to problem solving is **medium**.

Durability

The year 2004 marked a significant watermark in the development of FSC standards covering a range of certification related activities. Accredited certification bodies are now governed by a standard, which interprets the application of ISO/IEC Guide 65:1996 (“General Requirements for Bodies Operating Forest Product Certification Systems”). The intention of the standard is that the certification of forest management and labelling is conducted in a “consistent, reliable and credible manner.”⁴²⁸ Auditors of FSC standards are also expected to follow a standard set of requirements to ensure they comply with international norms, and “to improve the quality and consistency of certification decisions.”⁴²⁹ Further standards lay down the normative requirements expected of

certification bodies undertaking forest pre-evaluation visits and subsequent forest management evaluation.⁴³⁰ These are in addition to those covering the application of generic standards in the absence of a national standard and stakeholder consultation for forest evaluation.⁴³¹

FSC has been described as a certification scheme that aims to be responsive to varying socio-economic and ecological circumstances, whilst avoiding the ‘excessive’ flexibility that business demands might place upon it. To do so would alienate its social and environmental constituents and undermine the credibility of its standards.⁴³² Some flexibility is built into the system, but it has been argued, only to a limited degree; consequently any concessions that economic interests should expect from the system would be minor.⁴³³ Other schemes tend to be more flexible in the application of sustainability requirements, and focus more heavily on economic sustainability. The difference has been attributed to FSC’s reliance on performance-based criteria, in contrast to the systems- or process-based approach of its competitors.⁴³⁴ Performance-based standards are most effective they measure, evaluate and verify on the ground activity.⁴³⁵ It has been claimed that FSC is unequivocal in its use of performance-based standards, and reference in FSC Standard FSC-STD-20-002 to consistency in the structure and content of standards has been cited as evidence.⁴³⁶ There are nevertheless some negative aspects to FSC system associated with the regional development of management standards, most notably the degree of consistency, causing serious problems for those developing them.⁴³⁷ This has led to a considerable variability in standards.⁴³⁸

In the face of losing market share to rival chain-of-custody standards in the early 2000s FSC itself was obliged to demonstrate a greater degree of adaptability

within its own standards than previously. In Sweden a further dual certification agreement has been made between the PEFC and FSC systems, known as the practice of ‘double bookkeeping’, where companies are certified under both schemes, and track wood in and out of both systems.⁴³⁹

Interestingly, despite its longevity, one FSC insider has made the observation that even though FSC is committed to solving the global forest crisis there is no intention of keeping the institution “alive beyond need.”⁴⁴⁰

Interviews

Some interviewees felt that the structural flexibility in FSC’s chamber system contributed significantly to its capacity to adapt to local conditions. Two business representatives pointed to the existence of indigenous chambers in the New Zealand and Canadian national initiatives as examples.⁴⁴¹ Another business representative criticised FSC’s chamber-based governance, arguing that there was never any guarantee that rational changes to FSC’s rules would be approved, which had made the system slow to adapt and unpredictable.⁴⁴²

Some broader concerns were expressed about the implementation of FSC standards. One business interviewee commented on FSC’s lack of adaptability when it came to meeting the necessities of developing countries, which explained why so few tropical forests had been certified.⁴⁴³ One interviewee from the third group of subjects felt there was no latitude for such countries to develop compromise solutions because the standards were too high. They wanted to see FSC implement a stepwise approach to standards setting in such situations.⁴⁴⁴ Another NGO interviewee agreed that FSC’s system of standards setting needed to be made more flexible, as it would open the door for more national standards.⁴⁴⁵ This lack of flexibility was interpreted by another NGO interviewee

as one of the strengths of the system as it guaranteed consistency. A company certified in one country could be fairly sure that it was at a similar level as another elsewhere.⁴⁴⁶ Another business interviewee contradicted this.⁴⁴⁷ One NGO felt that FSC had been too flexible in meeting the needs of industry, and pointed to the changes made to percentage-based claims as an example.⁴⁴⁸ Another pointed out that although it was logical that a system as complex as FSC would constantly change its rules, it made it very difficult for people to deal with.⁴⁴⁹

Finally, one interviewee from the third group of subjects attributed the success of FSC to its longevity. This had allowed it to put well-organised structures and professional staff in place, and because it had been around for such a long time it was well known and consequently had a comparative market advantage over other schemes.⁴⁵⁰

Evaluation

Given the fact that FSC is one of the earliest examples of non-state regulatory initiatives to combat deforestation, its longevity cannot be denied. It has also managed to balance the need for strict and internationally consistent rules with the requirements for local flexibility, although this has not been without problems. Not all the changes implemented have been sufficient to keep old players or recruit new actors. In some instances, such as percentage-based claims and “double-bookkeeping” the changes made have been largely pragmatic and indicate a downward trend. In others, such as the consistency imposed on certifiers’ performance in the 2004 standards, the changes implemented have been productive. Nevertheless it is possible to discern an overall upward trend in the evolution of FSC’s structures, processes and products over time, and that its

adaptive capacity is generally positive. In all the main aspects of durability (longevity, flexibility consistency and adaptability) FSC ranks **high**.

Governance Quality of FSC

Method

Institutional performance in relation to each indicator is rated low, medium or high (or one, two, and three points for the purposes of assessment; scores in between have not been converted into half marks). The threshold value for indicators is a rating of ‘medium’ (or two points). Half points have not been awarded. These indicators contribute collectively to the performance of the relevant criterion (interest representation, organisational responsibility, decision making and implementation), which are scored according to a 50% pass/fail threshold. These in turn inform an overall score for the principles of meaningful participation and productive deliberation. For the benefit of classifying the extent of the system’s overall performance, each principle is also given a percentage score. The threshold between ‘pass’ and ‘fail’ across the system is 50%.

Commentary

FSC received 24 points out of a maximum total of 33. Three indicators achieved high ratings (inclusiveness, agreement, durability) seven medium (equality, resources, accountability, transparency, democracy, behavioural change, problem solving) and one low (dispute settlement). The conventional pass/fail target of 50% was exceeded by all criteria (interest representation and implementation scoring 78%, and with organisational responsibility and decision making achieving 67%). At the principle level, the aggregate result for meaningful participation was 73%, exceeding the target value of 50%. The aggregate result for productive deliberation was 72%, also exceeding the target value of 50%. The

score across the system is 73%, thus passing the threshold of 50% (see Table 4.6 below).

Table 4.5 Evaluative matrix of FSC governance quality

<u>Principle</u>	<u>1. Meaningful Participation</u>					
<i>Criterion</i>	1. Interest representation Highest possible score: 9 Lowest possible score: 3 Actual score: 7		2. Organisational responsibility Highest possible score: 6 Lowest possible score: 2 Actual score: 4			Sub-total (out of 15): 11
Indicator	Inclusiveness	Equality	Resources	Accountability	Transparency	
High	3					
Medium		2	2	2	2	
Low						
<u>Principle</u>	<u>2. Productive Deliberation</u>					
<i>Criterion</i>	3. Decision making Highest possible score: 9 Lowest possible score: 3 Actual score: 6		4. Implementation Highest possible score: 9 Lowest possible score: 3 Actual score: 7			Sub-total (out of 18): 13
Indicator	Democracy	Agreement	Dispute settlement	Behavioural change	Problem solving	Durability
High		3				3
Medium	2			2	2	
Low			1			
Total (out of 33)						
						Final Score: 24

Postscript

FSC Strategic Review

In 2005 the General Assembly mandated the FSC Board and staff to undertake a strategic review of direction, finance and governance system.⁴⁵¹ This was in recognition of the fact that although the system in place since 1993 had “provided enormous legitimacy for FSC in the marketplace and with stakeholders”, a “growing variety of growing pains” had been experienced.⁴⁵² A governance review process began in 2007 subsequent to the adoption of the FSC global

strategy by the Board. An initial informal consultation phase consisted of discussions with FSC staff internationally and nationally, with assistance from developmental consulting firm Accountability, and informed by the Greenpeace publication *Holding the Line*, which challenged some of FSC's controversial certificates. A second more formal phase commenced in February 2008 with the release of a white paper *Options for FSC's Future* aimed at FSC members and parties with a strong interest in governance. This resulted in a membership survey conducted between June and July.⁴⁵³

Three substantive components are outlined in the review, relating to membership, international and national arrangements, and dispute settlement. The intention is to create a two-tier system of membership consisting of traditional FSC members, and a new category of FSC supporters.⁴⁵⁴ FSC members will retain their existing voting rights, and prospective new voting members will continue to apply for membership under existing application and review arrangements. In addition, the quorum rules required for all decision making will be amended to reflect the 90%-10% voting weight currently allocated to organisational and individual members when making formal decisions. This is to address the current imbalance, where individual and organisational members have equal weight in the formation of quorums.⁴⁵⁵ Dues may now be paid to either national initiatives or the International Center. It is noted that the intention is to create a "dual membership platform eventually".⁴⁵⁶ The supporting member category is for those interests who do not want to become, or may be legally prohibited from doing so (such as government agencies or academic institutions). Fees for such members will be reduced or waived in the case of economic hardship, and membership is limited to being kept informed of developments, access to discounts for events

and meetings, and other benefits to be determined by the Board.⁴⁵⁷ Both members and supporters will continue to participate in consultations and surveys.⁴⁵⁸

A second set of proposals concerns the Board of Directors and senior staff (including national initiatives). The Board is to become “more strategic and less operational”, and will include non-voting technical advisors and a delegate from the national initiatives.⁴⁵⁹ The Board will retain its current size and follow the existing balanced composition. The non-voting national initiative delegate is to be nominated by the national initiatives on a consensus basis, and will alternate between the global North and South. No more than three technical advisors are to sit on the Board, and the maximum number of participants is to be 14.⁴⁶⁰ A new layer of management, the Senior Executive Group is also proposed, which will consist of Directors from each of the FSC’s business units, answerable to the Executive Director, to be renamed the Director General.⁴⁶¹ The role of this body (including FSC International Center, FSC Global Development and -- interestingly, given its theoretical structural separation -- Accreditation Services International) is to represent the work of the Group to the Board.⁴⁶² National initiatives are to be established under five year contracts, and are to function in a network system operating under a Regional Council, the intention of which is to set regionally relevant priorities, but the financial and geographic details of which are still to be determined.⁴⁶³

Finally, it is proposed that an independent Disputes Resolution Committee be created, that the existing Board-based system of disputes resolution be disbanded, that complaints procedures be streamlined, and an annual report detailing compliance actions be produced.⁴⁶⁴ The new Committee is the “highest appellate body” and “body of ‘last resort’” and is to consist of four independent persons,

one appointed by the Board on the advice of the chambers, the others representing each of the chambers.⁴⁶⁵ Its initial proposed tasks are to recommend changes to the existing disputes and complaints procedures, report to the membership, and recommend final decisions to the Board. The meaning of the term independent is defined in the context of keeping “the policy setting functions in the hands of FSC staff, Technical Working Groups, and FSC stakeholders.”⁴⁶⁶ It is intended to increase trust, as well as certify the complaints and appeals-related performance of each business unit.⁴⁶⁷

The third phase of governance-related consultation commenced at the FSC General Assembly in November 2008, where existing and new governance-related proposals discussed and generally supported, with some amendments.⁴⁶⁸ These related to: measures to improve governance structures (amended but approved as a policy motion); improving dispute resolution mechanisms (approved as a statutory motion without amendment); and rules to harmonise rules for achieving quorum (approved as a statutory motion without amendment).⁴⁶⁹ Changes to the membership system, including the creation of a new category of non-voting FSC Supporters were also approved (amended and changed from a statutory to a policy motion).⁴⁷⁰

Conclusions

The creation of FSC can be attributed to the failure of previous international initiatives to combat deforestation both prior to and post Rio. The particular form of its governance, most notably its market orientation, non-state emphasis and participatory philosophy reflects the emerging discourses around sustainable development prevalent at that time.⁴⁷¹ Initially developed largely by environmental NGOs and a few, but important, forest industry players, FSC grew

extraordinarily quickly, making certification a particularly appealing and comparatively “fast track” avenue for global forest policy change.⁴⁷²

FSC’s NGO origins, and the speed of its development were to have a number of longer-term consequences however. Firstly, those industry players who had not participated in its formative stages were deeply suspicious of its motives, and their fears were not allayed by the original 75%-25% power-sharing arrangements negotiated at its founding assembly. Given their suspicion, and the rapidly shifting policy climate at the time, the almost instantaneous development of competitor schemes is not surprising. Secondly, the haste with which FSC’s initial certificates were issued, and the credibility problems they generated, was to have a feedback effect on the growth of its rivals. Internally, the “learn by doing” and fast-track growth strategies of the early years also severely impacted on the organisation’s performance, and severely strained its relations with key stakeholders.

Whilst these origins have undoubtedly contributed both positively and negatively to the forest policy environment of today, the structures and processes that underlie FSC’s governance system have undoubtedly contributed to its survival. Despite its largely NGO origins, it has managed to capture and maintain the support of a wide range of stakeholders. Even though the numerical and geographical representation of these interests may not be equal, the chamber system addresses any potential power imbalances. The fact that these structures exist on both the international and national levels also provides for a generally inclusive culture across the system. The institution’s decision making processes also contribute to the system’s success as they provide multiple entry and exit points for problems to be circulated until solutions are found.⁴⁷³ The constant interplay between consensus and voting affords participants the opportunity to

revisit issues on several occasions. Interestingly, where the system's deliberative processes are weak, in the case of its dispute resolution mechanisms for example, the broader opportunities for collaborative dialogue inherent in the system may serve to circumvent such blockages.

FSC is not without its failings, however. Several recurring issues are a cause for concern. Firstly, certification bodies have a real potential to act as 'rogue' elements in the system. They are of course meant to be independent, but this creates problems of its own, most notably in relation to accountability. Secondly, the relationship between FSC and one of its core constituents, most notably WWF, has not always been a healthy one. Finally, there is a major unresolved tension in the system between participation, which is largely structural and occurs at the international and national levels, and consultation, which is largely procedural, and occurs at the local level. There is some validity to the observation that participation is more relevant in the development of standards at the international and national levels, than during certification-related assessments at the forest management unit level. However, it should also be borne in mind that a number of problematic conflicts in FSC (such as plantation certification) have their origins at the local level, as does the problem of deforestation itself.

The proposed changes to FSC's governance in the current review help clarify and improve the democratic relationship between individual and organisational members. It is also useful to expand the membership system, as this provides more opportunities for the system to demonstrate its organisational responsibility to a broader base than before (as well as increasing revenue). The proposed changes to international-national organisational structures will require some time before their value can be assessed. The true independence of the new Disputes

Resolution Committee is to be questioned however, as it is still ultimately under the control of the membership and Board, and the concern as to ‘who watches the watchdog’ remains. This concern relates also to Accreditation Services International, which continues to be institutionally integrated with much of the structure and process of the system it is intended to accredit.

Endnotes

¹ Steven Bernstein and Benjamin Cashore, “Nonstate Global Governance: Is Forest Certification a Legitimate Alternative to a Global Forest Convention?” in *Hard Choices, Soft Law: Combining Trade, Environment, and Social Cohesion in Global Governance* (Aldershot: Ashgate Press, 2004), pp. 33-64, p. 37; Benjamin Cashore, Graeme Auld and Deanna Newsom, *Governing Through Markets: Forest Certification and the Emergence of Non-State Authority* (New Haven and London: Yale University Press, 2004), Table 1.6 and p. 27. They also include the demand of products by “purchasers further down the supply chain” as a condition of market-driven governance (ibid).

² Christopher Elliott, *Forest Certification: A Policy Perspective* (Bogor: Center for International Forestry research, 2000), p. 1.

³ Phillip H. Pattberg, “The Forest Stewardship Council: Risk and Potential of Private Forest Governance”, *Journal of Environment and Development* 14 (3) (2005), pp. 356-374 at pp. 358-361.

⁴ Simon Counsell and Loraas, *Trading in Credibility: The Myth and Reality of the Forest Stewardship Council* (London and Oslo: Rainforest Foundation, 2002), p. 11.

⁵ Counsell and Kim Loraas, *Trading in Credibility*, p. 11.

⁶ David Humphreys, *Logjam: Deforestation and the Crisis of Global Governance* (London: Earthscan, 2006), p. 116. It dismissed the report as “a veiled attempt...to encourage the current campaign of boycott against the import of topical timber products” (David Humphreys, *Forest Politics: The Evolution of International Cooperation* (London: Earthscan, 1996), p. 72, citing ITTO document PCM(V)/D.1, “Report to the International Tropical Timber Council, Fifth Session of the Permanent Committee on Economic Information and Market intelligence”, 03/11/89). FoE’s original proposal was transformed into a broader initiative aimed instead at developing incentives for sustainable forest management generally (Elliott, *Forest Certification*, p. 46). The Council’s action effectively placed any opportunities for certification via the ITTO in abeyance (Counsell and Kim Loraas, *Trading in Credibility*, p. 11). FoE withdrew from the process (Humphreys, *Forest Politics*, p. 72). The Council’s decision also had the impact of encouraging WWF, which had announced that it would be moving the tropical timber trade into sustainable sources by 1995, to shift its campaign emphasis away from governmental, to non-governmental private sector initiatives (Humphreys, *Forest Politics*, pp. 72-74). In 1991, WWF commenced discussions with business and industry in the UK (Bas Arts, “Non-state Actors in Global Environmental Governance: New Arrangements Beyond the State” in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness*, ed. Mathias Koenig-Archibugi and Michael Zürn (London: Palgrave Macmillan, 2006), pp. 177-199 at p. 193)). It began to establish “trade networks”, designed to facilitate the transition of timber consuming businesses to trade only

sustainable timber (Counsell and Loraas, *Trading in Credibility*, p. 13). After the creation of FSC, Environmental NGOs, most notably WWF had begun to change tack in their campaigns, and mass consumer movements, losing momentum in the light of contemporary developments, gave way to a greater focus on developing demand for certified timber amongst timber traders. In April 1998 WWF signed an agreement with the World Bank, creating the WWF-World Bank Forest Alliance, under which 200 million hectares of production forest were to be independently certified by 2005 (Counsell and Loraas, *Trading in Credibility*, p. 12-13). A Global Forest and Trade Network had been established in 1997, servicing buyers' groups, established in the UK, the Netherlands, Belgium and Austria (Bernstein and Cashore, "Nonstate Global Governance", p. 38).

⁷ Humphreys, *Logjam*, p. 116.

⁸ Kate Heaton, "Smart Wood Program" in *International Conference on Certification and Labelling of Products from Sustainably Managed Forests* ed. Lorraine Cairnes (Canberra: Australian Government Publishing Service, 1996), p. 69. Heaton, Associate Director of the Smart Wood Program claims the year to be 1990 (ibid). Pattberg identifies the year as 1989, as do Cashore et al ("The Forest Stewardship Council", p. 362; Cashore et al, *Governing Through Markets*, p. 263).

⁹ Elliott, *Forest Certification*, pp. 1 and 74.

¹⁰ FSC, "About FSC - History", http://www.fsc.org/en/about/about_fsc/history, accessed 21/06/07 (the web page incorrectly dates this event as occurring in 1990). Humphreys, *Logjam*, p. 117. The meeting included WWF, the Rainforest Alliance and Greenpeace. Timber interests (consisting of largely small-scale producers) were represented by Alan Knight, from the British timber retailer B&Q, and Hubert Kwisthout, from the Ecological Trading Company. Kwisthout has been identified as one of the early instigators of the "sustainable certification idea" (Cashore et al, *Governing Through Markets*, p. 1-11). The Woodworkers' Alliance for Rainforest Protection has been identified as one of the instigators of the meeting and as the convening body (Hannes Mäntyranta, *Forest Certification - An Ideal That Became an Absolute*, trans. Heli Mäntyranta (Helsinki: Metsälehti Kustannus, 2002), p. 18, following Jean-Paul Jeanrenaud and Francis Sullivan, *Timber Certification and the Forest Stewardship Council (FSC), a WWF Perspective* (Godalming: WWF-UK, 1994)).

¹¹ Elliott, *Forest Certification*, p. 48, citing Christopher Elliott and Francis Sullivan, *Incentives and sustainability: Where is ITTO Going?* (Gland: WWF International, 1991), pp. 5-6.

¹² Mäntyranta, *Forest Certification*, p. 18. Mäntyranta, ibid, lists the following individuals as playing a significant founding role in FSC at this date: Chris Elliott, Senior Forests Officer with WWF International, based in Gland, Switzerland; Julio César Centeno, Professor of Wood Technology in the University of the Andes, Venezuela; Alan Knight, Environmental Coordinator B&Q Plc., Debbie Hammel, Director, Scientific Certification Systems, US; Dagoberto Irias, Honduras; Dominique Irvine, Program Director, Cultural Survival, US; Andrew Poynter, Director,

Woodworkers Alliance for Rainforest Protection and owner of A&M Wood Speciality, Inc., Canada.

¹³ Ibid.

¹⁴ Humphreys, *Logjam*, p. 118.

¹⁵ Humphreys, *Logjam*, p. 118, acknowledging the observations of Marcus Colchester of the Forest Peoples Programme (email, 11/03/06). It is possible to identify in this conflict over institutional approaches an underlying tension between two distinct schools of thought within the NGO community. On the one hand, major NGOs, exemplified by those involved in the establishment of the certification working group, favoured certification as a voluntary, private initiative to encourage sustainable forest management (Elliott, *Forest Certification*, p. 68). This made FSC “consistent with the paradigm of trade liberalisation”, which was gaining ground at the time, but was contrary to previous environmentalist efforts to have the forest industry formally regulated (Counsell and Loraas, *Trading in Credibility*, p. 12). Smaller national, and more ‘activist’ groups, such as German NGO Rettet Den Regenwald, objected to the commodification and corporatisation of forests and *Forest Certification*, which they believed could be co-opted by economic interests (Elliott, *Forest Certification*, p. 68, following Christopher Upton and Stephen Bass, *The Forest Certification Handbook* (London: Earthscan, 1995), p. 148). Elliott, *ibid*, places these two groupings into discrete coalitions, following Sabatier’s Advocacy Coalition Framework (Paul Sabatier, “An Advocacy Coalition Framework of Policy Change and the Role of Policy-oriented Learning Therein”, *Policy Sciences* 21 (1988) pp. 129-168). This trade-related strategy came into conflict with national environmental groups still pushing for a blanket ban on purchases from tropical countries (Counsell and Loraas, *Trading in Credibility*, p. 13).

¹⁶ Humphreys, *Logjam*, p. 117.

¹⁷ FSC’s P&C for Forest Stewardship currently cover: Compliance with laws and FSC principles; Tenure use rights and responsibilities; Indigenous peoples’ rights, Community relations and worker’s [sic] rights; Benefits from the forest; Environmental impact; Management plan; Monitoring and assessment; Maintenance of high conservation value forests; Plantations (Forest Stewardship Council A.C., “FSC Principles and Criteria for Forest Stewardship” FSC Standard FSC-STD-01-001 Version 4.0, approved 1993, amended 1996, 1999, 2002, p. 3). The P&C are currently under review.

¹⁸ David Humphreys, “The Certification Wars: Forest Certification Schemes as Sites for Trade-environment Conflicts”, paper presented to the privatizing environmental governance panel at the 46th annual convention of the International Studies Association Honolulu, Hawaii 1-5 March 2005, 45 pp., footnote 8 p. 5.

¹⁹ Mäntyranta, *Forest Certification*, p. 22, citing Julio César Centeno, letter of resignation of FSC membership, 18/06/99. Interim board member Julio César Centeno was to allege later that materials containing language referring exclusively to tropical forests were still being drafted as late as 1992 (*ibid*). The expansion to include temperate and boreal forest may be attributed to

concerns, that a focus on the tropics in NGO campaigns had associated timber from such areas in the minds of consumers as inherently bad, whilst non-tropical timber was good. National NGOs in timber-producing countries in Scandinavia and North America especially disputed the assertion that forest management in their countries was sustainable. Conversely, some producers from the tropics sourced their timber responsibly, but were being denied the opportunity to market it as such (Saskia Ozinga, *Behind the Logo: An Environmental and Social Assessment of Forest Certification Schemes* (Moreton-in-Marsh: FERN, 2001, p. 13). Fear amongst ENGOs about losing credibility may have been another motivating factor, since the downturn in the tropical timber trade resulting from their campaigns had led to the conversion of forests to other commodity uses (Pattberg, "The Forest Stewardship Council", p. 361).

²⁰ FSC, "About FSC - History", http://www.fsc.org/en/about/about_fsc/history, accessed 21/06/07. This web page claims the month was October, although this is corrected elsewhere ("About FSC – FAQs" http://www.fsc.org/en/about/about_fsc/faqs, accessed 21/06/07). Mäntyranta claims the number of participating countries to be 25, and identifies Switzerland, Canada, US, Peru, Ghana, Malaysia, Papua New Guinea, Brazil, Britain and Sweden as the countries consulted (*Forest Certification*, pp. 18-19).

²¹ Mäntyranta, *Forest Certification*, p. 20.

²² Ibid. One participant commented later that the chamber was split between those who wanted to give the power over to NGOs – incorrectly believing in their opinion, that this would enhance the system's credibility - and those who did not (personal interview, 12/07/05).

²³ Mäntyranta, *Forest Certification*, p. 21.

²⁴ Mäntyranta, *Forest Certification*, p. 20. One environmental NGO participant was to summarise the event as follows:

It was strangest meeting that I ever participated in. For two days and nights it was a real fight between the economic group, and the environmental and social groups, who were joined together. Both sides were dogmatic. The economic group said, "We have given you money, we brought you here." And the environmental and social groups said, "We don't trust industry. If you want FSC you will need to earn our trust. We don't want you to have any vote in the future board of FSC. You can have observer status, and then you will need to deserve the vote." Only on the last evening before the party, was there any preliminary agreement...The preliminary work to establish FSC had been done beforehand, but throughout the meeting, nobody believed it would get through, and then only at the end it was born" (personal interview, 12/09/06).

²⁵ Humphreys, "The Certification Wars", pp. 5-6

²⁶ Humphreys, *Forest Politics*, p. 150 reproducing "Forest Stewardship Principles and Criteria", pp. 2-6.

²⁷ FSC, "Document 1.3. Statutes", revised August 2000, November 2002, June 2005, article 4, clause 1, p. 1.

²⁸ FSC, "Document 1.1. Forest Stewardship Council A.C. By-Laws", ratified September 1994; editorial revision, October 1996; revised February 1999, August 2000, November 2002, June 2005, June 2006, paragraph 1, p. 1.

²⁹ Paragraphs 5-7, By-Laws, p. 1.

³⁰ http://www.fsc.org/en/about/about_fsc/history, accessed 21/06/07.

³¹ FSC, “About FSC – FAQs” http://www.fsc.org/en/about/about_fsc/faqs, accessed 21/06/07.

³² Mäntyranta, *Forest Certification*, p. 24.

³³ Their first target was a EU eco-labelling scheme for forest products, which had been in existence for some three years prior to FSC. Through the efforts of industry lobbyists from Brazil, the US, Canada and within the EU itself, it has been claimed that the scheme was subverted and the emphasis changed away from a performance focus, to process-based criteria and self-certification (Counsell and Loraas, *Trading in Credibility*, p. 11, following Simon Counsell, “The Role of Large Corporations in the Development of Forest Certification and Product Labelling Schemes”, Master of Science dissertation, Oxford Forestry Institute, 1996). In North America, the major forestry companies responded quickly to the creation of FSC and moved to develop their own certification schemes Errol Meidinger, “The Administrative Law of Global Private-public Regulation: The Case of Forestry”, *European Journal of International Law* 17 (1) (2006), pp. 47-87, p. 54). In Canada, the industry had not been especially interested in certification, but by the time of FSC Toronto meeting the CPPA (which sent a delegate) issued a press release announcing the development of a forest certification initiative under the Canadian Standards Association (Elliott, *Forest Certification*, pp. 146-149). In the US these efforts were matched by the American Forest and Paper Association (AFPA), which set about establishing the Sustainable Forestry Initiative (SFI; Humphreys argues that both have a stronger systems- rather than performance emphasis, based on the ISO 14000 series of standards, as well as weak social standards, particularly regarding indigenous peoples (*Logjam*, pp. 124-125)).

³⁴ The move was interpreted as an attempt to appease southern interests, and there were objections that a body whose headquarters were so far away should interfere with the well-established traditions of forest management in Europe (Mäntyranta, *Forest Certification*, p. 23). These objections were ultimately to contribute in the development of a further rival scheme in Europe in 1998, the PEFC, under the control traditional forestry interests, particularly landowners and forest product companies (Meidinger, “The Administrative Law of Global Private-public Regulation”, p. 55). In the tropics, the hostile reaction to FSC is best exemplified by Malaysia, which had most strongly objected to the FoE pre-project proposal for a certification and labelling programme 17 through the ITTO. It commenced the development of its own initiative in 1994 (Humphreys, *Forest Politics*, p. 72; Counsell and Loraas, *Trading in Credibility*, pp. 125-126). The Malaysian Timber Certification Council (MTCC) scheme presented its first draft national standard in 1996 (Counsell and Loraas, *Trading in Credibility*, p. 126. This scheme has also met with heavy criticism regarding its failure to protect indigenous peoples’ rights (*ibid*)).

The terminology applied to small-scale, private forest owners varies according to the source. The various terms used include non-industrial private forest landowners, or non-industrial private forest owners, small-scale forest owners and small-forest owners. Generally, this study uses forest

owners as a generic term, private forest owners to refer to private forest owners of any size, and small forest owners when seeking to emphasise the small-scale element of the sector.

³⁵ Ibid.

³⁶ FSC, “Plantations Review”, <http://www.old.fsc.org/plantations>, accessed 10/07/07.

³⁷ Humphreys, “The Certification Wars”, p. 6.

³⁸ Elliott, *Forest Certification*, p. 21, following Markku Simula, “International and Institutional Arrangements for Certification of Forest Management and Eco-labelling of Forest Products” proceedings of the UBC-UPM Conference on the Ecological, Social and Political Issues of the Certification of Forest Management (Vancouver: Faculty of Forestry UBC, 1996), pp. 170-193.

³⁹ Although FSC introduced provisions for certifiers to develop “group certification”, these had not yet come into full-effect. By 1997 only 4% of FSC’s area under certification was from small-scale or community operations (Elliott, *Forest Certification*, p. 21, citing FSC, “Document 5.3.3 (4.3), Forests Certified by FSC-accredited Bodies”, September 25, 1997). Efforts were made to address this problem in 1998, when the organisation instituted its group certification programme, which allowed forest managers to organise themselves collectively. By 2002 88 certificates had been issued for 23 countries covering 980,000 hectares of forests and 7,500 individual forest operations. Each forest holding averaged 42 hectares per member, while 30% of all holdings were less than 100 hectares (Dawn Robinson and Larianna Brown, *The SLIMFs Initiative: A Progress Report. Increasing Access to FSC Certification for Small and Low Intensity Managed Forests* (Oaxaca: Forest Stewardship Council, 2002), p. 3).

⁴⁰ Elliott, *Forest Certification*, p. 21.

⁴¹ Anonymous, *Certification in Indonesia* (London: Down to Earth and The Rainforest Foundation, 2001), 16 pp., p. 3.

⁴² http://www.fsc.org/en/about/about_fsc/history, accessed 21/06/07.

⁴³ http://www.fsc.org/en/about/about_fsc/history, accessed 21/06/07.

⁴⁴ Paul Romeijn, *Green Gold: on Variations in Truth in Plantation Forestry* (Heelsum: Treemail, 1999), p. 5. In 1989 Teakwood, a teak plantation investment company based in Costa Rica commenced promoting its activities to the Dutch public (Romeijn, *Green Gold*, p. 5). WWF joined the teak investment programme in 1993, expecting to earn a 5% return on profits generated from sales of timber, estimated at somewhere between \$23-73 million US (Romeijn, *Green Gold*, p. 55). Dutch banking and insurance company OHRA joined the programme shortly after. In 1993 WWF approached FSC interim Board member Professor Julio César Centeno to undertake an economic analysis of the timber yields and investment returns projected (Romeijn, *Green Gold*, p. 9-12). Centeno’s report was highly critical of the claims on rates of return on investment made (Romeijn, *Green Gold*, p. 12, citing Julio César Centeno, “Forest Certification as a Tool for Greenwashing”, November 4, 1996). The operations of the project’s manager Flor Y Fauna were certified by the Rainforest Alliance in 1995 (Romeijn, *Green Gold*, p. 59). This was prior to FSC’s

accreditation of its first four certifiers, including the Rainforest Alliance, which did not take place until February 1996 (http://www.fsc.org/en/about/about_fsc/history, accessed 21/06/07)). In 1996 advertisements, promoting the investment appeared, claiming it had been FSC certified. FSC in turn initiated its own investigations against Flor Y Fauna, but declared that the use of its name had been unintentional and the certificate was endorsed under FSC programme in January 1998 (Romeijn, *Green Gold*, pp. 5-8).

Centeno, having gone public on the matter, was caught up in legal proceedings (Romeijn, *Green Gold*, p. 83). He became increasingly critical of FSC's own P&C and the role of certifiers, voicing concerns about a wide range of matters including transparency, accountability and equity (Elliott, *Forest Certification*, p. 22, citing Julio César Centeno, "The Elusive Credibility of Forest Management Certification Claims", unpublished report, Merida, Venezuela, 1996). In 1999, he resigned from FSC, unhappy with the adoption of a percentage-based claims policy, whereby producers who utilised only a portion of FSC certified material were permitted append a modified label on their products (Mäntyranta, *Forest Certification*, p. 25, Counsell and Loraas, *Trading in Credibility*, p. 21).

⁴⁵ Simon Counsell, *Trickery Or Truth? An Examination Of The Effectiveness Of The Forest Stewardship Council* (London: The Rainforest Foundation, 1999). It challenged the effectiveness of FSC secretariat, the commitment of certifiers to stringent – and consultative - certification assessments, the true extent of democracy, representation, transparency and "multistakeholderism" across the system, and the Executive Director's pursuit of a 'fast growth' development strategy.

⁴⁶ FSC A.C., *Annual Report 1999* (Oaxaca: FSC A.C., 1999), p. 14.

⁴⁷ Ibid.

⁴⁸ FSC, *Annual Report 1999*, p. 15. Speaking at the second General Assembly towards the end of 1999, Executive Director Timothy Synnott interpreted FSC's development during this period as follows:

All this progress has come about in the framework of FSC's early decision to learn by doing – to design the systems as well as possible, to implement them, and to learn from the experiences. These experiences have been both good and bad, a lot of hard work and always valuable for developing, defining and clarifying systems for standards, certification and accreditation. 1999 has seen them all up and running, no longer the groundbreaking innovations of a few years ago (ibid.).

Synnott did acknowledge the fact that many members did not feel FSC's policies had lived up to their expectations, and admitted that this had led to a considerable degree of internal self-analysis within the organisation. He also accepted that mistakes had been made at all levels (FSC, "Minutes of the Forest Stewardship Council General Assembly Oaxaca, Mexico, 24-25 June, 1999", pp. 24-25). In an oblique reference to FSC's competitor schemes, he observed that: "fortunately...the opponents of FSC have made more mistakes than we have" (FSC, "Minutes", p. 25). Recognition was also given to the fact that not all members were satisfied with the "progress or the prospects" of FSC (ibid.). In his address to the Assembly, the Chair of the Board, Olaf Johansson commented that to run FSC "in a fair, transparent and effective way, we need to be skilled in stakeholder

consultation and conflict resolution” (FSC A.C., “Minutes of the Forest Stewardship Council General Assembly Oaxaca, Mexico, 24-25 June 1999”, p. 22).

Speaking on behalf of indigenous interests, David Nahwegahbow, a social chamber (north) Board member, encouraged indigenous people to support FSC. He believed that they saw “FSC’s Principles and Criteria, particularly Principle 3, as a means of influencing governments within regions to respect their rights” (FSC, *Annual Report 1999*, p. 32). He noted however that there was still not enough indigenous involvement in the organisation and warned against weakening Principle 3, “in our haste to certify more hectares and get more products on the market” (ibid.). Erstwhile Board member Bill Barclay, representing the views of Greenpeace, was to observe that FSC provided “a positive vehicle for change”, but considered that its efforts to promote community forestry had languished (FSC, *Annual Report 1999*, p. 39). He characterised Greenpeace as one of the institution’s “key stakeholders without a vested economic interest in the success of FSC. We have a clear mandate as a watchdog to keep FSC system honest and credible within the scope of what it can do” (ibid.). Board member Sian Tuan Mok singled out the forest problems confronting the Asia Pacific region, which although pioneering FSC certification was trailing “way behind” in areas of certified forests. Concerned about the low numbers of members from the region, he also noted that it suffered from a “negative perception and rejection” of FSC. This extended even to countries such as Australia, where the federal Minister for Forestry and Conservation had spoken out against the scheme (FSC, *Annual Report 1999*, p. 39).

⁴⁹ Ibid.

⁵⁰ FSC, “Minutes”, pp. 3-4.

⁵¹ FSC, *Annual Report 1999*, p. 6.

⁵² FSC, *Forest Stewardship Council 2000 Annual Report* (Oaxaca: Forest Stewardship Council A.C., 2000), p. 4.

⁵³ FSC, *2000 Annual Report*, pp. 5-6.

⁵⁴ Using twelve criteria, including performance-based standards, stakeholder participation, independence, transparency, applicability, consistency and the existence of complaints mechanisms, it assessed the governance arrangements of FSC, PEFC, SFI and CSA in six country-studies (Canada, Finland, France, Germany, Sweden and the US). It concluded that there were large differences between the four schemes, but that FSC was the only scheme with thorough performance-based criteria and which also addressed all aspects of sustainability. It considered FSC to be the only truly global scheme, applicable across all scales, tenures and forest types its certification and accreditation procedures rigorous, and its decision making equal (Ozinga, *Behind the Logo*, p. 47). In comparison to the other schemes, FSC was the only system to deliver on all of the elements FERN considered essential for a credible forest certification scheme (Ozinga, *Behind the Logo*, p. 49).

⁵⁵ Ozinga, *Behind the Logo*, p. 47.

⁵⁶ The certifier was accused of breaching the P&C, the revised certification procedures and guidelines approved at the 1999 General Assembly, and the the required improvements placed on the company were claimed to be inadequate. In March 2001 ENGOs wrote to the four certifiers active in the country (SmartWood, Scientific Certification Systems, SGS Qualifor and The Soil Association) requesting a moratorium on management evaluations and certification decisions pending the completion of the New Zealand national standard setting discussions (Combined New Zealand Environmental NGOs, “Letter of Inquiry to Scientific Certification Systems (SCS) on their certification of Fletcher Challenge Forests (NZ)”, April 2001).

⁵⁷ NGOs made the following observations regarding interim certification in New Zealand:

Over the last year there has been a rapid increase in the number of FSC certification evaluations using different certifier interim standards and over large areas of plantations. While we welcome the moves by plantation managers to become FSC certified, the certifications issued so far are too inconsistent standards and leave many important issues unresolved. ... As a result, virtually every forest management certificate issued has a complaints process in preparation, and the credibility of FSC is being seriously challenged (Royal Forest and Bird Protection Society, Greenpeace NZ, World Wide Fund For Nature NZ, Environment and Conservation Organisations of NZ, Native Forest Action, Friends of the Earth NZ, Native Forest Network – Southern Hemisphere, Federated Mountain Clubs of NZ “Letter to FSC Accredited Forest Management Certifiers”, 12/03/01).

⁵⁸ In September 2001 the World Rainforest Movement (WRM) released *FSC: Unsustainable Certification of Large Scale Tree Plantations*, a collection of news items from its newsletter, which were unfavourable to FSC (World Rainforest Movement, *FSC: Unsustainable Certification of Large Scale Tree Plantations* (Montevideo and Moreton-in-Marsh: World Rainforest Movement, 2001)). Criticising certified plantations in Brazil, Costa Rica, New Zealand, South Africa and Thailand, the publication called on FSC to review its plantation certification (World Rainforest Movement, *FSC: Unsustainable Certification*, pp. 3-4). It recommended either excluding plantations from certification or substantially modifying Principle 10, which was so weak that with the exception of plantations marked by land conflict most could be declared sustainable (World Rainforest Movement, *FSC: Unsustainable Certification*, p. 4). Part of the objection to the certification of plantations under the auspices of FSC arose from a philosophical objection to referring to them as forests. The main criticism, however, arose from the impact monoculture tree plantations had on the struggles of local people in the global South to protect their social and environmental rights (World Rainforest Movement, *FSC: Unsustainable Certification*, p. 4).

⁵⁹ Counsell and Loraas, *Trading in Credibility*, p. 12. The validity of the report was challenged by Greenpeace, which claimed some of its assertions were overstated, and that many of the problems identified had already been addressed (Pattberg, “The Forest Stewardship Council”, p. 368, citing www.greenpeace.org/deutschland/fakten/wald).

⁶⁰ Commenting on the alleged company breaches of certification requirements and non-compliance issues, Executive Director Heiko Liedeker promised to examine the allegations carefully. Although questioning some of the report’s findings, which FSC addressed in a separate and more detailed analysis, Liedeker nevertheless acknowledged the problems confronting FSC

concerning accreditation, certification and contractual arrangements between companies and their certifiers (FSC “Response to the Rainforest Foundation Report ‘Trading in Credibility’”, public statement dated 27/02/03, pp. 2-3). The organisation would also consider the report’s recommendations, as well the proposals of other stakeholders, to improve the system’s governance structures more generally. Defending the system Liedeker argued, that:

The report recognizes the complexity of FSC as a structure, and the complexity of standard setting, certification, accreditation and forest management. FSC is still young and has evolved rapidly, so it is not surprising that weaknesses and mistakes have occurred. FSC’s transparency has made such weaknesses clearly visible to FSC staff, members and stakeholders, and allowed FSC to comprehensively address any deficiencies. We regularly review our guidelines, and develop new policy interpretations and safeguards, learning from our experiences. New challenges are constantly emerging, much remains to be done, and it is seldom easy to reach agreement on what changes are needed or how best to carry them out with limited resources (FSC, “Response to the Rainforest Foundation Report”, p. 2).

⁶¹ FSC, *2001 Annual Report: Charting Our Future* (Oaxaca: FSC A.C., undated), pp. 7-8.

⁶² FSC, *Annual Report 2001*, p. 3.

⁶³ Ibid.

⁶⁴ FSC, *Annual Report 2002*, p. 5.

⁶⁵ FSC, “About FSC – Services”, http://www.fsc.org/en/about/about_fsc/services, accessed 21/06/07. The intention was that the regional offices would assist in the development of FSC and result in better-targeted support for the specific needs of tropical, southern countries. The Latin America Regional Office was located in Oaxaca. Funding for the African office was provided by the government aid agencies of Denmark and The Netherlands (FSC, *Annual Report 2002*, p. 6). Europe had previously been the first region to begin this process of decentralisation in 2001. A regional office for the Asia-Pacific was established in 2003. The offices consist of Directors (or in the case of the Asia Pacific, a Regional Representative), who work individually, or with a small staff, to assist in coordination and capacity-building of national initiatives in the regions, including the development of joint regional strategies, communication and training (FSC, *10 years of FSC 1993-2003 Looking to the Future* (Bonn: Forest Stewardship Council A.C., 2004), 16 pp, at pp. 6-7).

⁶⁶ FSC, *Annual Report 2002* (Bonn: FSC International Center, undated), p. 20.

⁶⁷ FSC, *Annual Report 2002*, p. 3; FSC, “Final Motions and Results from FSC General Assembly 2002”, p. 6.

⁶⁸ FSC, *Annual Report 2002*, p. 20.

⁶⁹ FSC, *Annual Report 2002*, p.8.

⁷⁰ Statutory motion 5, “Final Motions and Results: 2002”, pp. 2-3.

⁷¹ Statutory motion 6, “Final Motions and Results: 2002”, p. 3.

⁷² Policy motion 29, “Final Motions and Results: 2002”, p. 9.

⁷³ Policy motions 3 and four, “Final Motions and Results: 2002”, p. 5.

⁷⁴ Policy motions 35 and 47, “Final Motions and Results: 2002”, pp. 10 and 12.

⁷⁵ Policy motions 16, 30, 31 and 32, “Final Motions and Results: 2002”, pp. 7 and 9-10. Interestingly, an attempt to create a certification commission, and a new motion to investigate conflicts of interest between certification bodies and applicants for certification were both defeated (ibid).

⁷⁶ Policy motion 36, “Final Motions and Results: 2002”, p. 10. This had been a problem in New Zealand, where a range of different plantation companies had been certified against inconsistent generic standards (Combined New Zealand Environmental NGOs, “Letter to Certifiers”, 12/03/01).

⁷⁷ Policy motion 37, “Final Motions and Results: 2002”, p. 11.

⁷⁸ World Rainforest Movement, *Certifying the Uncertifiable: FSC Certification of Tree Plantations in Thailand and Brazil* ed. Larry Lohmann (Montevideo and Moreton-in-Marsh: World Rainforest Movement, 2003).

⁷⁹ FSC, *FSC News and Notes Annual Review 2003* 3 (1) (2004), p. 2.

⁸⁰ FSC, *FSC News and Notes Annual Review 2003*, pp. 2-7.

⁸¹ FSC, *FSC News and Notes Annual Review 2003*, p. 6.

⁸² FSC, *FSC News and Notes Annual Review 2003*, p. 2.

⁸³ FSC, *10 years of FSC 1993-2003*, p. 5.

⁸⁴ Highlighted by the 2006 General Assembly, described by the organisation as follows:

At the previous General Assembly three years ago there was a greater prevalence of conflict between sectors and hemispheres. The 4th General Assembly demonstrated the changed environment where motions were focussed on proposing actions instead of blocking sectors. An elevated level of dialogue was reached and ultimately the system allowed the three sectors to reach balanced decisions. No lone actor held the power (FSC, “FSC General Assembly 2005, Manaus, Brazil!” *FSC News and Notes Annual Review 2005* 4 (1) January 2006, p. 9).

⁸⁵ FSC, *FSC News and Notes Annual Review 2004*, pp. 2-6.

⁸⁶ FSC, *FSC News and Notes Annual Review 2004*, p. 3.

⁸⁷ FSC, *FSC News and Notes Annual Review 2005* 3 (1) January 2005, p.11. The new standards were promoted as addressing the G8’s action plan to combat illegal logging. They also represented, it was claimed, an option for governments who had begun implementing the action plan nationally by instituting procurement policies favouring legally harvested timber (FSC, *Annual Review 2005*, p. 3).

⁸⁸ Saskia Ozinga, *Footprints in the Forest: Current Practice and Future Challenges in Forest Certification* (Moreton-in-Marsh: FERN, 2004). The author was commissioned as a research consultant to prepare the assessment of the Australian Forestry Standard (AFS).

⁸⁹ Ozinga, *Footprints in the Forest*, p. 38.

⁹⁰ Ozinga, *Footprints in the Forest*, p. 21.

⁹¹ FSC, “Review Process” <http://www.old.fsc.org/plantations>, accessed 10/07/07.

⁹² *FSC News and Notes*, “A first Step Forward for the Plantations Review”, 2 (8/9) (2004), p. 3.

⁹³ FSC, “Review Process” <http://www.old.fsc.org/plantations>, accessed 10/07/07. FSC, “FSC Plantations Review Report from the First Policy Working Group meeting,” March, 2005 p. 1. The author, at that time an individual member of the environment chamber (north) was elected to participate in the group. There were two main aims of the review. Firstly, it was to engage social, economic and environmental stakeholders to review FSC’s P&C for plantations internationally and provide “clear guidance for future implementation.” Secondly, and for the broader global forest community, the review was to provide “clear, authoritative and widely accepted social and environmental standards for responsible management” (*FSC News and Notes Annual Review 2005*, “Plantations, the Challenge Ahead” 4 (1) (2006), p. 11). Consultations between FSC members and other interested parties were held through a range of media including large and small stakeholder meetings, telephone conferences, email discussions and an online survey (*FSC News and Notes*, “FSC Plantations Review Policy Working Group Completes its Task” 4 (9) (2006), p. 1).

⁹⁴ FSC, “Review Process” <http://www.old.fsc.org/plantations>, accessed 10/07/07.

⁹⁵ FSC, “FSC Plantations Review Policy Working Group Final Report” October 2006, p. 15. The recommendation to integrate the P&C was not met with full consensus, with one social and one environmental representative objecting (FSC, “Plantations Review Final Report”, p. 16).

⁹⁶ FSC, “Plantations Review Final Report”, p. 16.

⁹⁷ *FSC News and Notes*, “FSC Plantations Review Policy Working Group Completes Its Task”, 4 (9) (2006), p. 1.

⁹⁸ FSC, “Plantations Review Final Report”, pp. 7-11.

⁹⁹ FSC, “Review Process” <http://www.fsc.org/plantations>, accessed 10/07/07.

¹⁰⁰ FSC, “News”, June 08, 2008, <http://www.old.fsc.org/plantations.html>, accessed 15/01/09. This process has now been incorporated into a full review of the P&C (version 5.0) to be completed by the end of 2009 (FSC, “Announcement. Expanded Review and Revision of the FSC Principles and Criteria (FSC-STD-01-001 Version 4.0)” (undated).

¹⁰¹ FSC, Article 7, Statutes, pp. 2-3.

¹⁰² Article 6, Statutes, p. 2.

¹⁰³ Article 10, Statutes, pp. 3-4.

¹⁰⁴ Paragraph 28, By-Laws, p. 4.

¹⁰⁵ Paragraph 14, By-Laws, p. 3.

¹⁰⁶ Paragraph 28, By-Laws, p. 4. These include employees, consultants or representatives of forest related companies, industry associations, wholesalers, retailers, certification bodies, traders, end-users and government owned or controlled companies (*ibid*).

¹⁰⁷ Paragraphs 31.Bis - 32, By-Laws, p. 5.

¹⁰⁸ Paragraph 31, By-Laws, p. 5.

¹⁰⁹ FSC, “Governance – Membership Chambers”,

http://www.fsc.org/en/about/governance/membership_chambers, accessed 21/06/07.

A transitory clause in the By-Laws also refers to the environmental and social chambers needing to support “environmentally appropriate, socially beneficial and economically viable forest management”, reflecting the evolving definitions and provisions of the By-Laws over the more straightforward Statutes (Paragraph 32, p. 13).

¹¹⁰ Paragraph 33, By-Laws, p. 5.

¹¹¹ Paragraph 12, By-Laws, p. 2.

¹¹² Paragraph 17, By-Laws, p. 3.

¹¹³ Statutory motion 5, “Final Motions and Results: 2002”, pp. 2-3.

¹¹⁴ Articles 18-20, Statutes, pp. 7-8.

¹¹⁵ Paragraphs 28, p. 4, and 48-53, By-Laws, pp. 7-8.

¹¹⁶ Nancy Vallejo and Pierre Hauselmann, *Governance and Multi-stakeholder Processes* (Winnipeg: International Institute for Sustainable Development, 2004), p. 10.

¹¹⁷ Transitory Clause 73, By-Laws, p. 13.

¹¹⁸ Vallejo and Hauselmann, *Governance and Multi-stakeholder Processes*, p. 10.

¹¹⁹ Paragraphs 34-40, By-Laws, p. 5. All organisations must supply their Statutes, annual reports, publicly available accounts, and if relevant, a list of members. NGOs must provide evidence of their not-for-profit, or charitable status. Economic interests are required to provide a number of details, including commercial activities, which may be commercially confidential, and if requested, are treated by the Board as such. All applications must then be submitted with support statements from two existing FSC members. The Board considers the application under a range of criteria, for example, if the applicant genuinely supports FSC. If it is found acceptable, the organisation or individual becomes a provisional member. All new memberships are published every three months, and new members may be challenged by the membership, with support of at least two other FSC members. If after six months there has been no challenge, the membership is ratified. If challenged, a deciding vote is taken at the General Assembly (ibid).

¹²⁰ Paragraphs 34-40, By-Laws, p. 5.

¹²¹ FSC, *Ten years of FSC: 1993-2003*, p. 14.

¹²² Paragraph 11, By-Laws, p. 2.

¹²³ Article 15, Statutes, p. 5.

¹²⁴ Paragraph 18, By-Laws, p. 3. Given the number of policy motions usually debated at General Assemblies, this does not seem to be the case in practice. FSC has also hosted annual conferences since 1998, often around particular themes relevant to the organisation’s development

(http://www.fsc.org/en/about/about_fsc/history, accessed 21/06/07). They do not have the same constitutional significance as the General Assembly and are used as opportunities for discussing policy issues between assemblies (see for example FSC, *Annual Report 2000*, p. 5, *Annual Report 2002*, p. 12).

¹²⁵ Statutory motion 5, “Final Motions and Results: 2002”, pp. 2-3.

¹²⁶ Articles 18-20, Statutes, pp. 7-8.

¹²⁷ Articles 23 and 24, Statutes, p. 9.

¹²⁸ Article 22, Statutes, pp. 8-9.

¹²⁹ Paragraph 76, By-Laws, pp. 11-12.

¹³⁰ Vallejo and Hauselmann, *Governance and Multi-stakeholder Processes*, p. 10.

¹³¹ Articles 23 and 24, Statutes, p. 9.

¹³² Paragraph 57, subsection c, By-Laws, p. 8.

¹³³ Paragraph 57, subsection d, By-Laws, p. 9.

¹³⁴ Article 22, Statutes, pp. 8-9.

¹³⁵ Paragraphs 60-68, By-Laws, pp. 9-10.

¹³⁶ Article 29, paragraph 7, Statutes, p. 11.

¹³⁷ Article 26, Statutes, p. 10.

¹³⁸ Paragraphs 60-68, By-Laws, pp. 9-10.

¹³⁹ Article 29, paragraph 4, Statutes, p. 10. Paragraph 70, By-Laws, p. 10.

¹⁴⁰ Article 28, Statutes, p. 10.

¹⁴¹ Irene Evison, *FSC National Initiatives Manual* (Oaxaca: Forest Stewardship Council A.C., 1998), p. xiv.

¹⁴² Vallejo and Hauselmann, *Governance and Multi-stakeholder Processes*, pp. 8-9.

¹⁴³ FSC, “Accreditation – Accreditation of Certification Bodies”,

<http://www.fsc.org/en/about/accreditation/accred-certbod>, accessed 21/06/07.

¹⁴⁴ FSC, “Accreditation – Accreditation of Forest Stewardship Standards”,

http://www.fsc.org/en/about/accreditation/accred_fss, accessed 21/06/07.

¹⁴⁵ FSC, “Accreditation”, <http://www.fsc.org/en/about/accreditation>, accessed 21/06/07.

¹⁴⁶ http://www.fsc.org/en/about/accreditation/accred_fss, accessed 21/06/07.

¹⁴⁷ FSC, *FSC News and Notes Annual Review 2006* 5 (1) (2007), p. 14.

¹⁴⁸ FSC, “FSC Accredited Certification Bodies”, Document 5.3.1, 06 June 2007, pp. 1-5.

¹⁴⁹ Article 10, Clause 3, Statutes, p. 3.

¹⁵⁰ Paragraph 71, By-Laws, p. 10. The Statutes refer only to the rights of associates “to submit initiatives related to the Association’s organizational works and activities, as well as those related to the achievement of its mission and purposes” (Article 10, subsection 3, p. 3). FSC Statutes and

By-Laws use “shall” frequently; it is assumed here (although not stated in the documents themselves) that the use of such language implies obligation (this is the case in other FSC documents). On a second matter, FSC is unclear in its use of the term “regional”, which is used to refer to initiatives on both the supra- and sub-national levels.

¹⁵¹ Paragraph 71, By-Laws, p. 10.

¹⁵² Evison, *National Initiatives Manual*, p. xvi.

¹⁵³ Evison, *National Initiatives Manual*, pp. xvi-xviii.

¹⁵⁴ FSC, “FSC National Initiatives”, Document 5.1.2, 05 June 2007, pp. 1-8; FSC, “FSC Accredited Forest Stewardship Standards”, 30 March 2007 pp.1-2. The national initiatives (as well as the year their different standards were accredited) are: Australia, Belgium, Bolivia (2002 & 2004), Brazil (2002), Bulgaria, Burkina Faso, Cameroon, Canada (regional and national, 1999, 2004, 2005), Chile, Colombia (2006), Côte D’Ivoire, Croatia, Czech Republic (2006), Democratic Republic of Congo, Denmark (2005), Ecuador, Estonia, Ethiopia, Finland, Gabon, Germany (2001), Hungary, Ireland, Italy, Japan, Mexico, Mozambique, Netherlands (2005), Papua New Guinea, Peru (2001 & 2002), Poland, Romania, Russia, Slovakia, South Africa, Spain, Sweden (1998), Switzerland, United Kingdom (1999 & 2006), United States (various regions and types 2001, 2002 - 3, 2003 - 2, 2004 - 2), Vietnam and Zambia

¹⁵⁵ FSC, “Accreditation – Accreditation of National Initiatives”,
http://www.fsc.org/en/about/accreditation/accred_ni, accessed 21/06/07.

¹⁵⁶ These are characterised as a step-by-step process of growth, representing a progression involving increasing degrees of organisational activity, commitment and responsibility. As each category moves through its own growth stages, it enjoys a kind of quasi-formal ‘interim’ status until its development is complete (Evison, *National Initiatives Manual*, p. xvi). If a country or a region has a low level of knowledge about FSC, a Contact Person can be appointed to encourage discussion regarding certification, and to collaborate with FSC to disseminate information about the organisation. The By-Laws require the position to be occupied by an individual or delegated member of FSC (Paragraph 71, Clause a, By-Laws, p. 10). A large part of their energies are directed towards promoting the benefits of certification as a tool for forest management, and providing information about certified products to national stakeholders. Stakeholder identification and ongoing management, including the accumulation of contact details, and passing them on to relevant certification bodies and the Secretariat, subject to privacy conditions is another primary task. Institutionally, the contact person is expected to promote and initiate the formation of National Initiative Working Groups. The creation of a national initiative ultimately generates more work than a single individual can do on their own, and the formation of a working group, which a contact person may coordinate, enables the expansion of the scope of the initiative. A similar set of tasks, particularly stakeholder engagement, is expected of the individual in the formation of a working group (Evison, *National Initiatives Manual*, p. xviii).

Where there is already a high level of interest in certification an FSC Working Group may be established to develop a consultative process for the advancement of certification. The process may generate meetings and workshops, which must be open and transparent and represent all relevant social, environmental and economic stakeholder groups (Paragraph 71, Clause b, By-Laws, p. 10). The working group is essentially a facilitator of consultative processes, and a forum for debate (Evison, *National Initiatives Manual*, pp. xviii-xix). The Working Group exists for a fixed duration and has a dual role: to represent the members of its board and other individual or associate members within its own country, subject to its own Statutes and By-Laws; and to play a representational role within FSC global network.

Once this consultative process has been initiated, and a working group formed, a national or regional assembly of stakeholders can be instigated to elect a national or regional Advisory Board, the third entity, within a national initiative. The structure of this assembly and board must reflect composition of the international body. The board's role is to promote FSC, maintain consultations and guide the development of national standards consistent with FSC's P&C, and review and make recommendations concerning the application of certification bodies to become accredited (Article 71, Clause c, By-Laws, p. 10). There is an expectation that it will examine local accreditation decisions in detail, and with a critical eye (Evison, *National Initiatives Manual*, p. xix).

FSC may encourage the creation of a national or regional office in the event that a country has a functional advisory board and/or certification bodies are active there. The national office and Board relate one to another in a manner similar to that between FSC Secretariat and the Board of Directors, as covered in the By-Laws (Article 71, Clause d, By-Laws, p. 10). Its role is to coordinate and implement FSC activities, including training and education (Evison, *National Initiatives Manual*, p. xix).

¹⁵⁷ Evison, *National Initiatives Manual*, pp. xvi-xviii.

¹⁵⁸ FSC, "The Development and Approval of FSC International Standards", FSC Standard FSC-PRO-01-001, Version 1.0, November 2004.

¹⁵⁹ Summary, FSC Standard FSC-PRO-01-001, p. 1.

¹⁶⁰ Summary, FSC Standard, FSC-PRO-01-001, p. 1.

¹⁶¹ ISEAL, "Setting Social and Environmental Standards: A Research Report on Existing Standard-setting Practices, R028 – Public Draft 1, August 2003" <http://www.isealliance.org>, accessed 26/10/04, 20 pp. at p. 8, citing Bob Toth, *The Standards Development Process* (unpublished, 2003).

¹⁶² Ozinga, *Footprints in the Forest*, p. 46.

¹⁶³ Hannah Scrase and Anders Lindhe, *Developing Forest Stewardship Standards – A Survival Guide* (Jokkmokk: Taiga Rescue Network, 2001).

¹⁶⁴ Evison, *National Initiatives Manual*, p. lix.

¹⁶⁵ FSC, “Process for Developing FSC Forest Stewardship Standards” FSC-STD-60-006 and “Structure and Content of Forest Stewardship Standards”, FSC Standard FSC-STD-20-002, Version 2.1, revised May 2005 and October 2005), p. 3. Guidance on the development of standards also exists in a tool, “The Pathfinder” produced by WWF and Pi Environmental Consulting (Arancibia, *Forest Stewardship Standards*, pp. 1-2).

¹⁶⁶ Daniel Arancibia, *Forest Stewardship Standards in FSC System* (Pully: Pi Environmental Consulting and WWF, 2003), pp. 3-4.

¹⁶⁷ Elliott, *Forest Certification*, p. 12.

¹⁶⁸ Ozinga, *Behind the Logo*, p. 10. The performance basis of FSC standards differentiates them from other forest certification programmes. These programmes are based on the C&I of such intergovernmental processes as Helsinki and Montréal, used for promoting and monitoring sustainable forest management at the national level. These are not performance standards and were not developed for certification, but have been appropriated to do so (Ozinga, *Footprints in the Forest*, pp. 15-16). They approximate the FSC’s P&C to varying degrees.

¹⁶⁹ FSC, “FSC Accredited Certification Bodies”, pp. 1-3.

¹⁷⁰ FSC, “FSC Accredited Certification Bodies”, pp. 1-3.

¹⁷¹ Ozinga, *Footprints in the Forest*, p. 48.

¹⁷² FSC, “Local Adaptation of Certification Body Generic Forest Stewardship Standards”, FSC Standard FSC-STD-20-003, Version 2-1, November 2004, p. 3. This standard is not intended to substitute for the larger national standards setting process, but serves to create at least some examples of forest certification in a given country. The discussion and consultation involved in developing the standard has the potential to act as catalyst for such a national standard (ibid).

¹⁷³ Paragraph 2.3, FSC-STD-20-003, p. 5.

¹⁷⁴ Paragraph 3, FSC-STD-20-003, p. 7. Certifiers must have procedures in place for contacting stakeholders, providing them with information, and hearing their points of view - if necessary, in confidence. In the case of the assessment of small or low intensity managed forests, certification bodies must carry out direct consultations with local and national stakeholders where “tensions” are known to exist (ibid). The meaning of this language – and many other terms within FSC lexicon - is unclear; FSC is in the process of developing a glossary internationally, FSC-STD-01-002 (Andrei Giacini de Freitas, Head of Operations, FSC International Center, personal correspondence, 28/08/07).

¹⁷⁵ Meidinger, “The Administrative Law of Global Private-public Regulation”, p. 52.

¹⁷⁶ Bas Arts, “Non-state Actors in Global Governance: New Arrangements Beyond the State”, in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi and Michael Zürn (Basingstoke and London: Palgrave Macmillan, 2006), pp. 177-200 at p. 196, citing Mathias Koenig-Archibugi, “Mapping Global Governance” in *Governing Globalization: Power, Authority and Global Governance*, ed.

David Held and Anthony McGrew (Cambridge: Polity Press, 2002); Chris Tollefson, Fred Gale and David Haley, *Setting the Standard: Certification, Governance and the Forest Stewardship Council* (Vancouver: UBC Press, 2008) pp. 304-315.

¹⁷⁷ Arts, “Non-state Actors in Global Environmental Governance”, p. 194.

¹⁷⁸ Bernstein and Cashore, “Nonstate Global Governance”, p. 38.

¹⁷⁹ Christine Overdevest, “Codes of Conduct and Standard Setting in the Forest Sector Constructing Markets for Democracy?” *Relations Industrielles/Industrial Relations* 59 (1) (2004), pp. 172-197 at p. 179.

¹⁸⁰ Bernstein and Cashore, “Nonstate Global Governance”, p. 37.

¹⁸¹ Ibid.

¹⁸² Arts, “Non-state Actors in Global Environmental Governance”, p. 194.

¹⁸³ Arts, “Non-state Actors in Global Environmental Governance”, p. 194, citing Errol Meidinger, “Law Making by Global Civil Society: The Forest certification Prototype”, paper prepared for the International Conference on Social and Political Dimensions of Forest Certification, University of Freiburg, Germany, 2001.

¹⁸⁴ Lars H. Gulbrandsen, “Overlapping Public and Private Governance: Can Forest Certification Fill the Gaps in the Global Forest Regime?” *Global Environmental Politics* 4 (2) (2004) pp. 75-99, at pp. 80-85.

¹⁸⁵ This decision was seen as potentially affecting its ability to work with WTO on certification matters, and of denying governments the capacity-building contribution towards establishing national programmes where NGOs, industry or other stakeholders were weak. Nevertheless, governments did play a role in working group discussions in some countries, such as the UK and Belgium (Elliott, *Forest Certification*, p. 21).

¹⁸⁶ FSC, “Final Motions and Results from FSC General Assembly 2002”, (statutory motion 2) p. 1.

¹⁸⁷ Vallejo and Hauselmann, *Governance and Multi-stakeholder Processes*, p. 10.

¹⁸⁸ FSC-STD-20-003, p. 3.

¹⁸⁹ Paragraph 2.3, FSC-STD-20-003, p. 5.

¹⁹⁰ Lars H. Gulbrandsen, “Sustainable Forestry in Sweden: The Effect of Competition Among Private Certification Schemes”, *The Journal of Environment & Development*, 14 (3) (2005), pp. 338-355 at p. 349.

¹⁹¹ Personal interviews, 14/07/05 and 05/09/07. This was identified as an historical problem and an artefact of the institution’s original structure and had meant that social interests had joined at a later stage. The late arrival had arisen from a different set of motivations to become involved, since the instrument was already functioning, and it was seen as a means of addressing particular social issues (personal interview #1, 05/07/05).

¹⁹² Personal interview #1, 05/07/05.

¹⁹³ Personal interview #2, 05/07/05. One local NGO participant in standards setting contrasted the one-the-ground and inclusive nature of the standards development in their country in contrast to the national PEFC process. With FSC, an effort had been made to go beyond national organisational interest representation. Although people could complain that they hadn't been included, at least FSC had tried; participation had been initiated "from a very different starting point" (personal interview, 26/08/05).

¹⁹⁴ Personal interview #1, 14/07/05. One NGO provided the example of Sweden, where the demands of Sámi people had been recognised by granting them grazing rights in private forests (personal interview #1, 05/07/05). Speaking specifically to the issue of indigenous participation in FSC, and contrasting with NGO observations, one business interviewee felt that a number of indigenous interests invited to participate in FSC had deliberately chosen not to get involved. This was because they did not want to work with WWF, Greenpeace, or Friends of the Earth because such global NGOs were not representative (personal interview, 15/09/06).

¹⁹⁵ Personal interview #1, 18/07/05. They felt PEFC had reached the point where FSC had been in 1999.

¹⁹⁶ Personal interview, 15/09/06. However, they pointed to FSC standards in their country by contrast, where a couple of forest companies had been early participants in the FSC movement, and their involvement had had led to productive discussion and dialogue with FSC. Interestingly, one NGO interviewee shared this view on the linkage between lack of inclusion and weak standards. They pointed to the contrast between the UK and other "dysfunctional" processes such as those in Sweden (the second time round), Canada's Maritimes Province, and Finland. In all three there had been a common trend that it had proved hard to get "meaningful representation" from all groups (personal interview #2, 11/07/05).

¹⁹⁷ Personal interview #1, 01/09/06.

¹⁹⁸ Personal interview, 17/07/05.

¹⁹⁹ Personal interview, 14/09/06.

²⁰⁰ Personal interview, 17/07/05.

²⁰¹ Personal interview, 23/08/05.

²⁰² Personal interview, 22/09/05.

²⁰³ One interviewee expressed a strong opinion that what differentiated FSC from other "so-called participatory processes" was that competing certification schemes restricted participation to consultation. This meant that they would hear what stakeholder had to say, but ultimately made the decisions themselves (personal interview, 17/07/05). Another interviewee saw all participation as consultation. They felt that consultation was extremely difficult particularly in achieving the balance between an exhaustive process and recognising the law of diminishing returns i.e. that continuing to expand inclusion did not necessarily generate more information (personal interview #3, 14/07/05). Two interviewees saw a difference between consultation and participation. They

both thought that participation occurred during standards setting, whereas what occurred during the certification process could only be seen as consultation, which represented a lower level of stakeholder engagement (personal interviews #1 and #2, 05/07/05). FSC had never really provided certifiers with any proper guidance about what participation and consultation meant and how they should be conducted. FSC needed to pay more attention to other organisations and non-Western cultures where participation was more culturally accepted. Participation was by its nature time-consuming. Consultation in FSC on the other hand could be very quick, which fitted in well with the schedule associated with certification assessments, but under such time – and economic – constraints it was difficult to achieve proper participation. The interviewee was not sure that there was an easy solution. It might be resolved by ensuring standards setting was participatory at all levels, and that consultation should follow a format of identifying national conditions and conflicts and identifying as soon as possible who were the important groups to consult. This was particularly the case in countries with no national standards (personal interview #2, 15/07/05). One business interviewee had reached an interesting personal conclusion regarding the role of consultation in the certification process. They thought that stakeholder involvement during community consultation could best be understood as a “local permitting” mechanism for standards setting (personal interview, 15/09/06).

²⁰⁴ Pattberg, “The Forest Stewardship Council”, p. 365.

²⁰⁵ Mäntyranta, *Forest Certification*, pp. 24-25, citing Centeno, letter of resignation of FSC membership.

²⁰⁶ Pattberg, “The Forest Stewardship Council”, pp. 366 and 370.

²⁰⁷ Humphreys, *Logjam*, p. 118; Elliott, *Forest Certification*, p. 21.

²⁰⁸ Humphreys, “The Certification Wars”, p. 6. These new provisions were to be implemented as soon as there were at least 15 member organisations in each of the chamber and sub-chamber categories. The intention behind waiting until these targets were met was to avoid any chamber with only a few members having an excessive voting influence in proportion to its low numbers (Evison, *National Initiatives Manual*, p. xiii). Two years were to pass before the General Assembly was able to use the new protocol for voting motions in 1999 (FSC, “Minutes”, p. 3).

²⁰⁹ Ozinga, *Behind the Logo*, p. 47.

²¹⁰ Bernstein and Cashore, “Nonstate Global Governance”, p. 39.

²¹¹ FSC, “FSC Social Strategy: Building and Implementing a Social Agenda”, Version 2.1 February 2003, pp. 8-9.

²¹² FSC, “FSC Social Strategy”, p. 9.

²¹³ FSC, “FSC Social Strategy”, p. 16.

²¹⁴ Paragraph 4.5, FSC-STD-20-003, p. 7.

²¹⁵ Paragraph 1.4.3, FSC-STD-20-006, p. 4.

²¹⁶ FSC, “FSC Social Strategy”, p. 40.

-
- ²¹⁷ FSC, “FSC Social Strategy”, p. 17.
- ²¹⁸ Statutory motion 5, “Final Motions and Results: 2002”, pp. 2-3.
- ²¹⁹ Transitory Clause 73, By-Laws, p. 13.
- ²²⁰ Paragraphs 60-68, By-Laws, pp. 9-10.
- ²²¹ http://www.fsc.org/en/about/accreditation/accred_fss, accessed 21/06/07.
- ²²² Paragraphs 7.3-7.4, FSC-PRO-01-001, p. 9.
- ²²³ Annex 4, FSC-PRO-01-001, p. 24.
- ²²⁴ Note 3, Sub-clause f, Paragraph 6.6, FSC-PRO-01-001, p. 8.
- ²²⁵ Evision, *National Initiatives Manual*, p. xxxiii.
- ²²⁶ Kirsti Thornber, “Certification: A Discussion of Equity Issues”, in *Social and Political Dimension of Forest Certification*, ed. Errol Meidinger, Christopher Elliott, and Gerhard Oesten, (Remagen-Oberwinter: Forstbuch, 2003), pp. 63-82.
- ²²⁷ Thornber, “Certification: a discussion of equity issues”, p. 64.
- ²²⁸ Thornber, “Certification: a discussion of equity issues”, pp. 67 and 76.
- ²²⁹ Thornber, “Certification: a discussion of equity issues”, p. 77.
- ²³⁰ Ibid.
- ²³¹ They portrayed WWF as seeing itself as a “special member of FSC.” This had not granted it any undue favours, but it had certainly given it more direct access. The Executive Director for instance, would be far more likely to respond to a telephone call that came from WWF than a minor member. The organisation’s influence could also be felt on the national level. This interviewee provided an example of Sweden where the organisation got the scheme going and, as the only NGO with the resources to do so, was able to work full time on the programme’s development (personal interview #2, 17/08/05). It should also be noted that executive director Heiko Liedeker had an extensive background in WWF. Whilst located in Germany, he worked for the organisation as its senior forest policy advisor, head of the forestry department, and chairman of the European forest team. Subsequently, and before moving to FSC in 2001, he headed WWF’s European certification initiative, based in Switzerland (FSC, “Governance – Executive Director” http://www.fsc.org/en/about/governance/executive_director, accessed 21/06/07).
- ²³² Personal interview #2, 05/07/05, 11/07/05.
- ²³³ Personal interview #1, 17/08/05, Personal interview, 23/08/05.
- ²³⁴ Personal interview #2, 05/07/05. In one instance, one NGO interviewee expressed frustration that standards development in their country had not been balanced, due to the decision of industry not to participate. This had left NGOs having more power than they wanted (personal interview #1, 17/08/06). Another NGO interviewee provided examples in their standards setting process of the elaborate arrangements that were undertaken to constantly “tweak” the numbers of participants from the three chambers to ensure there was no dominance by any chamber. This “balancing out”

had been a necessity in their particular domestic circumstances, and they had been more concerned about that, than FSC requirements (personal interview #2, 17/08/06).

²³⁵ Personal interview #2, 14/07/05.

²³⁶ Personal interview, 12/07/05.

²³⁷ Personal interview #1, 18/07/05. NGOs promoted FSC by trying to bring it into government policy decisions, such as those concerning timber procurement, and in the case of WWF, in the market, through buyers' groups. WWF in particular had been one of the most vociferous supporters of the programme at FSC's public launch. Such factors had the impact that business felt that NGOs exerted an overly heavy influence in FSC (ibid).

²³⁸ Personal interview #1, 18/07/05, personal interview, 15/09/06.

²³⁹ Personal interview, 15/09/06.

²⁴⁰ Personal interview, 14/09/06.

²⁴¹ Personal interview, 15/09/06.

²⁴² Personal interview #1, 14/07/05.

²⁴³ Personal interview #1, 05/07/05.

²⁴⁴ Personal interview #2, 05/07/05.

²⁴⁵ Personal interview, 14/07/05, personal interview #2, 04/09/06; see also Eero Palmujoki, "Public-private Governance Patterns and Environmental Sustainability", *Environment, Development and Sustainability* 8 (2006), pp. 1-17 at p. 11, citing P. Virtanen and E. Palmujoki, *Sustainable Forest Management through Multilateral Environmental Agreements* (Helsinki: Ministry for Foreign Affairs, 2002).

²⁴⁶ Personal interview, 14/07/05.

²⁴⁷ Personal interview,

²⁴⁸ FSC, "Forest Certification Reports" FSC Standard FSC-STD-20-008, Version 2.1, November 2004, p. 7.

²⁴⁹ Personal interview, 17/07/05.

²⁵⁰ Article 17, subsection h, Statutes, p. 6.

²⁵¹ Personal interview, 12/07/05.

²⁵² Personal interview, 17/07/05.

²⁵³ Articles 18-20, Statutes, pp. 7-8.

²⁵⁴ Policy motion 40, "Final Motions and Results: 2002", p. 11 (USD\$5,000 for ordinary members and \$7,500 for the Chair).

²⁵⁵ Evison, *National Initiatives Manual*, p. lxxxix. This includes consultation processes, which can be expensive. Such processes are therefore expected to balance the need for inclusiveness against realistic financial constraints (Evison, *National Initiatives Manual*, p. lxviii). Efforts are made by the International Center to provide funded opportunities for national initiatives to meet one with

another at least once a year, sometimes more often. Participation in international policy processes, such as the plantations review are funded for those selected to participate, but cannot afford to resource themselves. Many stakeholders still participate in standards setting at their own cost, however. This includes business participants and representatives from large NGOs (personal interview, 17/07/05). Some funds are raised nationally to provide per diem expenses in developing countries, such as those in Africa, or Indonesia, as random examples (personal interview #3, 14/07/05). The funding of participants to attend standards development processes and the circumstances in which such events are held has also attracted criticism. Concern was expressed over the funds spent on meetings associated with the Brazilian standard. Holding events in five-star hotels was considered unproductive in view of the separation it created between high-level and local stakeholders. This interviewee also felt that the ability of people to have input into all levels of FSC was affected by their financial ability to attend meetings (personal interview #2, 05/07/05).

²⁵⁶ Personal interview #3, 14/07/05. One NGO interviewee who had previously worked as a certification consultant commented that there were costs associated with the assessment process for certifiers and their clients, and they could be quite burdensome, especially for developing country companies. Some companies had shown themselves willing to invest in community capacity building such as providing technical support for adjacent communities to assist forest managers in gathering data and developing management plans. This kind of assistance was to be contrasted with fulfilling the letter of FSC's participation requirements. There was a qualitative difference between doing the background capacity-building work of sharing information and advising everybody of the stakes involved, than simply sending out emails (personal interview #1, 11/07/05).

²⁵⁷ One NGO interviewee had complained that their participation in developing the standard had been very costly in terms of food and accommodation, but especially travel, as meetings had been held all over the country. They had considered the process so important that they had been willing to pay (personal interview #1, 14/07/05). Another NGO volunteer had never asked for travel reimbursement, even though it was available (personal interview, 23/08/05). Paid NGO staff provided a range of views. For one, their participation was considered an investment since they represented a conservation organisation, and concentrating on FSC was money well spent (personal interview #2, 17/08/05). For another, their organisation had recognised the necessity of being involved in both FSC and PEFC, and had developed a specific budget accordingly (personal interview, 05/09/06).

²⁵⁸ Personal interview #2, 14/07/05.

²⁵⁹ Personal interviews #1 and #2, 17/08/05.

²⁶⁰ Personal interview #1, 11/07/05.

²⁶¹ Personal interview #2, 14/07/05.

²⁶² Personal interview 15/07/05.

-
- ²⁶³ Personal interview #2, 14/07/05, personal interview #2, 05/07/05.
- ²⁶⁴ Personal interview #1, 05/07/05.
- ²⁶⁵ Paragraphs 25-27, By-Laws, p. 14.
- ²⁶⁶ http://www.fsc.org/en/about/governance/membership_chambers, accessed 21/06/07.
- ²⁶⁷ Paragraph 30, By-Laws, p. 5.
- ²⁶⁸ Paragraphs 28, p. 4, and 48-53, By-Laws, pp. 7-8.
- ²⁶⁹ Paragraphs 31.Bis - 32, By-Laws, p. 5.
- ²⁷⁰ Articles 23 and 24, Statutes, p. 9.
- ²⁷¹ Article 58, Statutes, p. 9.
- ²⁷² Paragraphs 48-53, By-Laws, pp. 7-8. Two of WWF's senior staff, Chris Elliott and Bruce Cabarle served on the Board (personal interview #2, 11/07/05).
- ²⁷³ In May 1998 a meeting of the Board approved a strategic plan developed by Coopers and Lybrand geared around "rapid expansion" in the absence of the required quorum of members being present. The plan targeted countries with a significant timber trade, including Indonesia. After complaints from the membership the plan was revised by the Secretariat, but it still did not address concerns regarding the countries' legal shortcomings, nor the lack of support from civil society for the initiative in the regions (Anonymous, *Certification in Indonesia*, p. 3).
- ²⁷⁴ Paragraph 71, subsection d, By-Laws, p. 11.
- ²⁷⁵ Counsell and Loraas, *Trading in Credibility*, pp. 107-113.
- ²⁷⁶ Personal interview #3, 14/07/05.
- ²⁷⁷ Mäntyranta, *Forest Certification*, p. 28.
- ²⁷⁸ FSC, *Annual Report 2002*, p. 10.
- ²⁷⁹ FSC, Progress Report 2005, p. 5.
- ²⁸⁰ Humphreys notes that FSC played a role in the foundation of ISEAL, established to promote social justice and ecological sustainability in trade amongst a range of not-for profit, voluntary standard setting, accreditation and certification organisations. ISEAL has unsuccessfully attempted to be recognised by the International Accreditation Forum (IAF). IAF has been characterised as a more business-oriented, nationally focussed international organisation, which accredits other bodies to undertake certification, if their activities conform to an agreed standard. PEFC is accredited under IAF. Humphreys explains the difference between the two schemes as being founded on who makes the rules of global governance, and whether they should include social and ecological criteria (*Logjam*, pp. 132-133). See also the chapter on PEFC below.
- ²⁸¹ FSC, Progress Report 2005, p. 5.
- ²⁸² FSC, *Leading Our World Toward Responsible Forest Stewardship: A Progress Report* (Bonn: Forest Stewardship Council A.C., 2005), p. 5.

²⁸³ Accreditation Services International, “Procedures for FSC Accreditation of Certification Bodies”, ASI-PRO-20-110 Version 1.0, September 2006, p. 1.

²⁸⁴ Phillip H. Pattberg, “What Role for Private Rule-Making in Global Environmental Governance? Analysing the Forest Stewardship Council (FSC)” *International Environmental Agreements* 5 (2) (2005), pp. 175-189 at p. 181.

²⁸⁵ FSC-STD-20-002, p. 3.

²⁸⁶ Counsell and Loraas, *Trading in Credibility*, p. 6.

²⁸⁷ Paragraph 8, FSC-STD-20-002, pp. 10-13.

²⁸⁸ In the case involving Flor y Fauna, Interim Board member Centeno criticised the Rainforest Alliance in 1996 for mismanaging certification for the purpose of giving ‘green’ credibility to a fundamentally flawed and fraudulent project. He believed it exemplified “the difficulties with implementing credible certification programs, as well as the challenges involved in the operation of reliable accreditation systems, capable of efficiently assessing potential certifiers, and of adequately monitoring their activities” (Romeijn, *Green Gold*, p. 12, citing Julio César Centeno, “Forest Certification as a Tool for Green Washing”, November 4, 1996) NGOs, concerned over the natural tropical forest management undertaken French company Isoroy in Gabon, certified by SGS, lodged a formal complaint with FSC in 1996 (Elliot, *Forest Certification*, p. 22). The Rainforest Foundation further accused accredited certifiers of certifying logging that did not comply with FSC’s P&C, and in one case, of approving an African logging company, which did not even have a forest management plan in place (Anonymous, *Certification in Indonesia*, p. 2). Subsequently, *Trading in credibility* identified the process whereby certification bodies both compete in the market and act as middlemen between FSC and forest managers, with whom they share an economic interest, as an operational weakness. The publication argued that the problem had increased in the absence of effective sanctions and control mechanisms (Counsell and Loraas, *Trading in Credibility*, pp. 4-6).

²⁸⁹ FSC-STD-20-003, p. 1.

²⁹⁰ The activities of two certification companies were suspended in 2007: in Cameroon, Eurocertifior – Bureau Veritas Certification, has been suspended for not demonstrating adequately that companies were complying with corrective action requirements; and in Chile, Institut für Marktökologie, for issuing forest management certificates on the basis of new evaluations (FSC, “FSC Accredited Certification Bodies”, pp. 1-3).

²⁹¹ Paragraph 71, By-Laws, p. 10.

²⁹² Evison, *National Initiatives Manual*, p. vi.

²⁹³ Evison, *National Initiatives Manual*, pp. xxii-xxiv. The contact person’s Agreement covers one person, and formally recognises their commitment to the position. They are not employed by FSC and remain independent. They have the right to use FSC name and logo and identify themselves as “FSC Contact Person for (the territory).” The working group agreement is for a

group or legal body, which shares common objectives for forestry, but is discrete from the country's national initiative. Working groups are self-sufficient, separate from, and independent of, FSC, other than agreeing to its mission and purposes. They are obliged to share procedural information and related items such as membership lists, and remains valid, in accordance with due process, even if the original composition changes. Where national working group participants are not members of FSC, they are expected to show a demonstrable commitment to the organisation. National Advisory Boards are covered by an Agreement, which denotes its status as a body that represents the working group to FSC. It is a financially independent, elected body, comprising a majority of FSC members. The National office is the most important body covered by an Agreement on the national level. It is a legally constituted organisation, which is formally recognised as FSC national initiative. It has the authority to use the name initials and logo of FSC, and runs indefinitely until both FSC A.C. and itself agree to terminate the organisation (ibid).

²⁹⁴ Gulbrandsen, "Overlapping Public and Private Governance", p. 92.

²⁹⁵ Personal interview #2, 05/07/05. Principle Ten was a case in point. It could be argued that its associated criteria were the same for everybody and that everybody had to meet them according to a minimum level set by FSC. However, in countries where there were no national standards certification bodies had far too much leeway as to how they interpreted Principle Ten (ibid).

²⁹⁶ The NGO interviewee noted in their country that there were examples of certifiers cutting back on field evaluations and increasing stakeholder consultations, because they required fewer resources, making their bids more competitive than other certification bodies. This was affecting FSC's general reputation (Personal interview, 12/09/06).

The business informant commented that their national standards setting body was accredited by FSC to undertake both chain of custody certification and forest management certification, while it also provided its professional services to help set standards. Having been told it was not appropriate for them to both set standards and undertake certification activities, FSC nationally had responded by creating two separate entities, governed by a holding body, to manage the different roles. The interviewee felt this was too close a relationship. The waters had been muddied further since certification bodies wishing to offer their services domestically needed to be accredited by the national standards body. By undertaking to do FSC work, it was no longer the ideal body to accredit certification bodies (personal interview, 15/07/05).

²⁹⁷ Personal interview #1, 11/07/05.

²⁹⁸ Personal interview #2, 17/05/05. In particular, the success of the buyers' groups was attributable to the existence of FSC, even if their creation had partly pre-dated FSC. The buyers' groups had had financial spin-offs for WWF, enabling it to keep extra staff on the payroll, which would not have been possible without the existence of FSC. The situation had created some tensions between the two organisations, since a number of companies preferred to give their money to WWF, particularly in the earlier years of FSC's existence, as WWF was seen as a safer investment. This in turn had had an impact on FSC's own fundraising capacity and ability, and

there had been some bitterness. However, with so many people working within WWF in the interest of FSC but being paid by WWF it had become difficult to disentangle the two (ibid).

²⁹⁹ Personal interview #2, 11/07/05. They added that a number of employees of WWF also acted as contact persons in countries such as Bulgaria, Poland, Latvia, Spain and Denmark Ibid).

³⁰⁰ Personal interview #1, 01/09/06. This had been problematic because of the antagonism between WWF and private forest owners. The interviewee observed that WWF had pushed private forest owners to the limit, and they had left the process. From that point on, the process had developed neither very smoothly, nor particularly well (ibid).

³⁰¹ Personal interview, 17/07/05.

³⁰² Policy motion 29, “Final Motions and Results: 2002”, p. 9.

³⁰³ Evison, *National Initiatives Manual*, p. xxix.

³⁰⁴ Evison, *National Initiatives Manual*, p. xxiii.

³⁰⁵ Mäntyranta, *Forest Certification*, p. 25, citing Centeno, letter of resignation of FSC membership.

³⁰⁶ Counsell and Loraas, *Trading in Credibility*, pp. 44-45. In particular, the success of the buyers’ groups was attributable to the existence of FSC, even if their creation had partly pre-dated FSC. The buyers’ groups had had financial spin-offs for WWF, enabling it to keep extra staff on the payroll, which would not have been possible without the existence of FSC. The situation had created some tensions between the two organisations, since a number of companies preferred to give their money to WWF, particularly in the earlier years of FSC’s existence, as WWF was seen as a safer investment. This in turn had had an impact on FSC’s own fundraising capacity and ability, and there had been some bitterness. However, with so many people working within WWF in the interest of FSC but being paid by WWF it had become difficult to disentangle the two.

³⁰⁷ FSC, “Forest Certification Public Summary Reports”, Standard FSC-STD-20-009, Version 2.1 EN, November 2004, 7 pp. The document recognises that it is not always possible to involve all stakeholders in every forest evaluation, which is why the findings associated with forest certification should be available to the public for scrutiny. Public availability is presented as “the only way to demonstrate to all the affected parties that certification decisions are justified and acceptable” (FSC-STD-20-009, p. 3). An objective of the standard is to demonstrate that the certified forest area meets FSC P&C. Reporting elements particularly relevant to issues of transparency include comments on the consultation processes and who was involved, a list of the main strengths and weaknesses identified in the evaluation, justification why a certificate has been issued where stakeholders have alleged non-compliance, and a description of all preconditions placed on the operation and the actions taken to address them by the certificate holder (Box 1, Paragraph 6, FSC-STD-20-009, pp. 6-7). The report must be updated and made publicly available after each subsequent inspection (paragraph 7, FSC-STD-20-009, p. 7). The larger the operation, the greater the detail of information expected in the public summary (FSC-STD-20-009, p. 3).

Public summaries must be made available in one of FSC's official languages and at least one of the official languages of the country in question, or the most widely spoken language of the indigenous people where the certified forest is located (paragraph 1.1, clauses a) and b), FSC-STD-20-009, p. 4).

³⁰⁸ Counsell and Loraas, *Trading in Credibility*, pp. 4-6.

³⁰⁹ FSC-STD-20-008 Version 2.1 EN and FSC, "Chain of Custody Certification Reports", Standard FSC-STD-20-010 Version 2.1 EN, November 2004. The objective is to ensure consistency between certification bodies (FSC-STD-20-008, p 3 and FSC-STD-20-010, p. 3). Forest management certification reports are noted as being of particular importance since they are basis upon which the recommendation to certify a company is both justified and explained (FSC-STD-20-010, p. 3). Certifiers must also make their generic standards available in national or local languages when undertaking consultations (paragraph 3.1.1 FSC-STD-20-003, p. 3).

³¹⁰ See FSC, "FSC Controlled Wood Standard for Forest Management Enterprises" FSC Standard FSC-STD-30-010 Version 2.0 EN, October 2006; FSC, "Standard for Company Evaluation of FSC Controlled Wood" FSC Standard FSC-STD-40-005 Version 2.1 EN, October 2006; and FSC, "Standard for Evaluation of FSC Controlled Wood in Forest Management Enterprises" FSC Standard FSC-STD-20-012 Version 1.0 EN, March 2007.

³¹¹ FSC, "FSC Requirements for the Promotional Use of FSC Trademarks by FSC Certificate Holders and Non-certified Commercial Organizations" FSC Standard FSC-TMK-50-201, Version 1.0 EN, April 2007, p. 5.

³¹² Policy motion 19, FSC "Final Motions and Results: 2002", p. 8.

³¹³ Ibid.

³¹⁴ Policy motion 19, FSC "Final Motions and Results: 2002", p. 8.

³¹⁵ Meidinger, "The Administrative Law of Global Private-public Regulation", p. 81.

³¹⁶ Errol Meidinger, "Forest Certification as a Global Civil Society Regulatory Institution", contained in *Social and Political Dimensions of Forest Certification* ed. Errol Meidinger, Christopher Elliott and Gerhard Oesten (Remagen-Oberwinter: Forstbuch, 2003), pp. 265-292, at p. 279.

³¹⁷ One interviewee from the third group of informants felt that financial interests underlay this relationship, largely on account of the World Bank/WWF alliance. They were concerned that whenever the World Bank developed a forestry programme in a former Soviet Union country, or in Eastern Europe generally, countries were recipients of funding if they agreed to adopt FSC. They considered the whole programme to be an elaborate game, which had created distrust amongst private forest owners, who wanted the arrangements to be transparent and open (personal interview #1, 22/08/05). Another business informant commented that because FSC was so strongly backed by NGOs there was a perception that it was highly credible, whereas the closeness of the relationship was actually preventing public discussion about the weaknesses in the organisation's

governance system. This same interviewee was particularly critical of FSC's approach to certifying forest areas in the absence of national standards. More than half the area under the programme had been certified in this manner following generic standards developed by the certifiers themselves, and nobody really knew what the content of the standards was (personal interview, 09/09/05). One NGO interviewee corroborated this observation, commenting that FSC was at its weakest in terms of transparency and stakeholder participation in its use of interim standards (personal interview #2, 11/07/05).

³¹⁸ Personal interview #1, 14/07/05.

³¹⁹ Personal interview, 26/08/05.

³²⁰ Personal interview, 23/08/05.

³²¹ Personal interview #1, 11/07/05.

³²² Personal interview # 3, 14/07/05.

³²³ Paragraph 12, By-Laws, p. 2.

³²⁴ Paragraph 13, By-Laws, p. 2.

³²⁵ FSC, *Ten years of FSC 1993-2003*, p. 14.

³²⁶ Paragraph 13, By-Laws, p. 2.

³²⁷ Palmujoki, "Public-private Governance Patterns", p. 13.

³²⁸ Counsell and Loraas, *Trading in Credibility*, p. 7.

³²⁹ Counsell and Loraas, *Trading in Credibility*, p. 7. It should also be noted that the report is not entirely negative. It acknowledges that whatever its failings, FSC is based on sound principles, which cannot be said for its competitor, industry schemes, and is more demanding than them in its assessment procedures (Counsell and Loraas, *Trading in Credibility*, p. 12).

³³⁰ Counsell and Loraas, *Trading in Credibility*, p. 7.

³³¹ Tony Lindström, Eric Hansen and Heikki Juslin, "Forest Certification: The View from Europe's NIPFs", *Journal of Forestry* 97 (3) (1999), pp. 25-30 at pp. 25-26. One of the charges made against FSC in a protest organised by European forest owners in Germany in 1999 was a lack of democracy in the governance system, which did not acknowledge private property rights, and discriminated against small-scale forestry on the basis of cost (ibid). See also the case study on PEFC below.

³³² Cashore et al, *Governing Through Markets*, p. 12.

³³³ Personal interview, 05/09/07.

³³⁴ Personal interview #2, 05/07/05.

³³⁵ One commented that NGOs in their country organised the decision making processes and effectively had the power to determine the pace at which decisions were made (personal interview, 23/08/05). Another felt that national standards setting could both assist public debate about forest

management, but also undermine it, especially where companies were certified in the presence of ongoing community opposition (personal interview #2, 05/07/05).

³³⁶ Personal interview, 16/09/05.

³³⁷ Personal interview, 09/09/05.

³³⁸ Personal interview #1, 22/08/05.

³³⁹ Personal interview #3, 14/07/05. This interviewee argued that FSC increased the relative power of social and environmental stakeholders in comparison to economic interests, who for a variety of reasons, had more say in national democratic process, and which were by their nature less concerned with negotiated solutions to sustainability issues. In other cases nation-states did not have functioning democracies, and in these instances the kind of standard-setting processes offered by FSC helped promote democracy.

³⁴⁰ Statutory motion 6, “Final Motions and Results: 2002”, p. 3. If a quorum is not achieved within the sub-chamber, motions may be sent (within two months) to a postal ballot, which also requires a 66.6% vote in the affirmative to pass. This second ballot does not require a quorum, but a simple majority approval in each sub-chamber (ibid).

³⁴¹ Statutory motion 6, “Final Motions and Results: 2002”, p. 3.

³⁴² Statutory motion 6, “Final Motions and Results: 2002”, p. 3. For one variation, see Tollefson et al, *Setting the Standard*, p. 83, relating to British Columbia.

³⁴³ Evison, *National Initiatives Manual*, p. xxxii.

³⁴⁴ Evison, *National Initiatives Manual*, p. lxiii.

³⁴⁵ Meidinger, “The Administrative Law of Global Private-public Regulation”, p. 69.

³⁴⁶ Tollefson et al, *Setting the Standard*, p. 289.

³⁴⁷ Personal interview, 12/07/05.

³⁴⁸ Personal interview #1, 14/07/05.

³⁴⁹ Personal interview #2, 05/07/05. Another NGO interviewee commented that on a national level, contrary to the view of some private forest owners, there was an opportunity for forestry interests to wield a considerable degree of power in FSC because of the need for consensus (personal interview, 23/08/09).

³⁵⁰ Personal interview, 17/07/05. Tollefson et al comment on the exercise of lowest common denominator decision making in FSC, which they consider to be of a higher quality than those made in other forums, particularly within the nation-state (*Setting the Standard*, pp. 241-242).

³⁵¹ Paragraphs 72-73, By-Laws, p. 11.

³⁵² Paragraph 73, By-Laws, p. 11.

³⁵³ FSC, “Forest Stewardship Council Interim Dispute Resolution Protocol”, Document 1.4.3, adopted January 1998, p. i.

³⁵⁴ Paragraph 18, By-Laws, p. 3.

³⁵⁵ FSC, “Forest Stewardship Council Interim Dispute Resolution Protocol. Adopted by the Board January 27 1998”, Document 1.4.3, April 1998, 61 pp.

³⁵⁶ *FSC News and Notes*, “How does FSC Resolve Complaints and Disputes in its System?” 17 (2003), p. 3. Firstly, for resolving a complaint, the plaintiff is expected to take the matter up with the relevant body, such as the forest manager, certification body or national initiative. If this does not resolve the matter, the complaint becomes a dispute and it may be submitted to FSC for resolution. This is justified on account of the costs involved, encouraging discussions with the group or person, and as a means of avoiding dispute resolution processes. Those wishing to proceed are asked to write a letter to FSC Executive Director describing the dispute, explaining how they were involved, and suggesting a solution. FSC then attempts to solve the dispute informally and forwards the letter to the FSC Dispute Resolution Committee, which tries to solve the issue within 30 days. If the issue is not addressed to the satisfaction of the complainant, the dispute enters a more formal process, described in the Protocol (ibid). During this stage written evidence must be formally submitted. Written communications between the plaintiff and FSC are administered by the Secretariat. The Executive Director may reject materials if they are not submitted in a timely fashion. If a written decision is not issued within the specified timeframe the complaint should be considered as having been rejected. This may be appealed within the specified timeframe. The protocol also imposes costs among the parties, and imposes sanctions for failing to reimburse costs, and also for non-cooperation by any party (Executive Summary, Interim Dispute Resolution Protocol, pp. 1-3).

³⁵⁷ Anon., “How does FSC Resolve Complaints”, p. 4.

³⁵⁸ FSC, “Interim Dispute Resolution Protocol”, pp. 1-3.

³⁵⁹ Paragraph 18, FSC Standard FSC-PRO-01-001, p. 18.

³⁶⁰ Evison, *National Initiatives Manual*, p. lvii.

³⁶¹ Evison, *National Initiatives Manual*, p. xix.

³⁶² Evison, *National Initiatives Manual*, p. xlviii.

³⁶³ FSC, “Stakeholder Consultation for Forest Evaluation”, FSC Standard FSC-STD-20-006, Version 2.1, November 2004, pp. 1-4.

³⁶⁴ FSC, “FSC Chain of Custody Standard for Companies Supplying and Manufacturing FSC-Certified Products”, FSC Standard FSC-STD-40-004, Version 1.0, September 2004, Annex 1, p. 20 and FSC, “FSC Standard for Non FSC-Certified Controlled Wood”, FSC Standard FSC-STD-40-005, Version 1.0, September 2004, paragraph 4, at p. 6. In these contexts the responsibility is on the forest enterprise, rather than the certifier, to provide documentary evidence that timber has not come from such sources. In areas where civil rights have been violated and the parties are in discussions, the manager must demonstrate evidence of consultation and dispute resolution with affected parties, and agreed procedures for addressing the dispute (FSC, “FSC Standard for Forest Management Enterprises Supplying Non FSC-Certified Controlled Wood”, FSC Standard FSC-

STD-30-010, Version 1.0, September 2004, paragraphs 2-3. at p. 6.). The consultation process must be open, transparent and representative (FSC-STD-30-010, p. 9).

³⁶⁵ Paragraph 8, FSC-STD-30-010, p. 9.

³⁶⁶ They are characterised as being excessively legalistic in approach, and the language complex (there is also only an English Version of the Protocol). Requirements for timeliness make it difficult for complainants, particularly small and/or southern NGOs, to comply, as do the provisions for lodging deposits (\$1000 for primary complainants, and \$250 for each of the two supporting members). In terms of complaints against certifiers, the point is made that when disputes are handled informally certifiers have the potential opportunity to collude with clients to conceal evidence. Informal treatment also places no time provisions on certifiers, and this has meant that complaints have been unduly prolonged, and by delaying the process, certifiers also block FSC itself from intervening. During this period, companies' activities may also generate further complaints, which may remain unknown to FSC.³⁶⁶ The authors conclude that the procedure is "seriously flawed, by being biased in favour of certifiers and their clients, and discriminatory against weaker stakeholders" (Counsell and Loraas, *Trading in Credibility*, p. 45).

³⁶⁷ Tollefson et al, *Setting the Standard*, p. 286. The authors recommend a states-like separation of powers between the judiciary, legislative and executive arms through the creation of a permanent and independent disputes office (*Setting the Standard*, p. 291). In some countries it has been argued FSC has helped resolve more ingrained societal level disputes over forest management, as was the case in Sweden, but in others, such as Finland, it remains to be seen how FSC will be able to operate when substantial areas are under dispute (Palmujoki, "Public-private Governance Patterns", p. 13).

³⁶⁸ Ozinga, *Footprints in the Forest*, p. 48, Meidinger, "The Administrative Law of Global Private-public Regulation", p. 72.

³⁶⁹ Meidinger, "The Administrative Law of Global Private-public Regulation", p. 72.

³⁷⁰ FSC, "Interim Dispute Resolution Protocol", p. 1.

³⁷¹ Meidinger, "The Administrative Law of Global Private-public Regulation", p. 72.

³⁷² Anon. "How Does FSC Resolve Disputes", pp. 3-4.

³⁷³ Ozinga, *Footprints in the Forest*, p. 48.

³⁷⁴ See for example Paragraph 18, FSC Standard FSC-PRO-01-001, p. 18.

³⁷⁵ Ozinga, *Behind the Logo*, p. 47.

³⁷⁶ Personal interview, 16/09/05.

³⁷⁷ Personal interview, 09/09/05.

³⁷⁸ Personal interview #2, 14/07/05. Industry had turned to FSC on an international level, seeing it as an honest broker to break the impasse. The refusal of FSC to assist had generated a lot of disappointment. People had seen FSC at an international level as an outside party that could help, and it had failed to do so (ibid).

³⁷⁹ Personal interview, 12/07/05.

³⁸⁰ Personal interview #2, 05/07/05.

³⁸¹ Speaking about conditions in Bolivia, another NGO interviewee observed that it had taken certified companies operating in areas where there were land disputes a lot of time to resolve conflicts. The effort had ultimately been worthwhile in the long run however, as they had achieved greater stability than in areas where there had been no previous conflict. They attributed this to the capacity building, outreach and partnerships that had arisen as part of the discussions around resolving conflicts (personal interview #1, 11/07/05).

³⁸² Oran R. Young and Marc A. Levy, "The Effectiveness of International Environmental Regimes", in *The Effectiveness of International Environmental Regimes: Causal Connections and Behavioural Mechanisms* ed. Oran R. Young (Cambridge, Massachusetts: MIT Press, 1999) pp. 3-4.

³⁸³ Lars H. Gulbrandsen, "Sustainable Forestry in Sweden", p. 253.

³⁸⁴ Andrew D. Leslie, "The Impacts and Mechanics of Certification", *International Forestry Review* 6 (1) (2004) pp. 30-39 at p. 34 (citing various sources).

³⁸⁵ Pattberg, "The Forest Stewardship Council", p. 370.

³⁸⁶ Pattberg, "What Role for Private Rule-Making", p. 185.

³⁸⁷ Pattberg, "The Forest Stewardship Council", p. 369.

³⁸⁸ Pattberg, "The Forest Stewardship Council", p. 369, citing J. Mayers, J. Evans and T. Foy, *Raising the stakes: Impacts of Privatisation, Certification, and Partnerships in South African Forestry* (London: International Institute for Environment and Development, 2001) and G. Segura, *Forest Certification and Governments: The Real Potential and Influence of Regulatory Frameworks and Forest Policies* (Washington DC: Forest Trends, 2004).

³⁸⁹ Pattberg, "The Forest Stewardship Council", p. 369.

³⁹⁰ Gulbrandsen, "Sustainable Forestry in Sweden", pp. 347-349. In Sweden, the antagonism towards the forestry sector, which was at an extreme level in the 1970s and 1980s appears to be at reduced levels subsequent to FSC certification, although conflict does still arise. Participants in the Swedish FSC process observed that it had enabled dialogue, and although core beliefs may not have been fundamentally changed in the light of post certification conflicts, there was now an institutional space for deliberation and conflict resolution (ibid).

³⁹¹ Magnus Boström, "How State-Dependent is a Non-State-Driven Rule-Making Project? The Case of Forest Certification in Sweden", *Journal of Environmental Policy & Planning* 5 (2) (2003), pp. 165-180 at p. 174. One NGO representative interviewed for this study felt there was a backlash coming. Local groups in Sweden who had been campaigning to have areas protected were now having to deal with certification instead. This had had the effect that they were now complaining about every act of non-compliance with the standard, which stood at approximately 450 as of June 2005 (personal interview #2, 05/07/05).

³⁹² Gulbrandsen, “Overlapping Public and Private Governance”, pp. 94

³⁹³ Gulbrandsen, “Sustainable Forestry in Sweden”, pp. 351-352.

³⁹⁴ On a more positive note however, it appears that many of these schemes have “changed upward” as a result of the market competition with FSC, and the pressure exerted upon them by ENGOs (Gulbrandsen, “Overlapping Public and Private Governance”, pp. 94-95; “Sustainable Forestry in Sweden”, p. 350, citing Cashore et al *Governing Through Markets*). This impact on the behaviour of other schemes has been reflected in an increase in participatory standard setting generally, even if it has not translated into a greater diffusion of FSC’s own market model. Nevertheless, even though business has at times responded to market changes resulting from NGO pressure by developing its own supply chains, it has nevertheless become more sympathetic to discursive models as a response to resolving pressing problems (Overdevest, “Codes of Conduct and Standard Setting in the Forest Sector”, p. 190).

³⁹⁵ Eckhard Reh binder, “Forest Certification and Environmental Law”, in *Social and Political Dimensions of Forest Certification* ed. Errol Meidinger, Christopher Elliott, and Gerhard Oesten (Remagen-Oberwinter: Forstbuch, 2003), pp. 331-351 at p. 345.

³⁹⁶ *Trading in Credibility* suggests that there is a conflict between the performance-based and continuous improvement objectives of FSC system. This has generated confusion between and within certifiers as to how they assess whether a company complies with and implements FSC standards. As a result companies may be assessed either on the basis that they improve their performance before certification, or that they plan or intend to improve after certification. This in turn impacts on whether a certifier determines if a corrective action imposed on a company is a pre-condition or condition of certification. The authors argue that certifiers are increasingly presenting themselves as proponents of the continuous improvement model, and have consequently awarded certificates with conditions placed upon them that constitute major failings against FSC’s P&C. The two systems of assessment produce quite different outcomes, and consequently different consumer guarantees. (Counsell and Loraas, *Trading in Credibility*, pp. 22-23).

³⁹⁷ Personal interview, 23/08/05.

³⁹⁸ Personal interview # 2 , 05/07/05. A third NGO interviewee observed that in their country after certification large companies who had been poorly regarded for their commitment to biodiversity conservation had overtaken private forest owners, who had previously enjoyed a better reputation (personal interview, 05/09/06).

³⁹⁹ Personal interview, 17/07/05. Views were equivocal regarding the real degree of learning that had been gained by the beneficiaries of certification at the national level. The interviewee provided examples in two countries, where large areas of state-forest were certified. Field officers’ knowledge amounted to little more than an understanding that there were some restrictions placed on the management of their forests (personal interview, 17/07/05). One final interviewee from this group commented that the forest owners they had met in their country recognised that FSC

standards were very tough and highly specific, and that there were significant costs involved in implementing it. In this regard, FSC had assisted in pushing the limits of sustainable forest management further than PEFC (Personal interview #1,01/09/06).

⁴⁰⁰ Philipp H. Pattberg, “The Institutionalization of Private Governance: How Business and Nonprofit Organizations Agree on Transnational Rules” *Governance: An international Journal of Policy, Administration, and Institutions* 18 (4) (2005), pp. 589-610 at p. 605.

⁴⁰¹ Pattberg, “What Role for Private Rule-Making” p. 182.

⁴⁰² Reh binder, “Forest Certification and Environmental Law”, p. 346. See also Ben Cashore, Fred Gale, Errol Meidinger and Deanne Newsom, *Confronting Sustainability: Forest Certification in Developing and Transitioning Countries* (New Haven: Yale Forestry and Environmental Studies Series, 2006).

⁴⁰³ Pattberg, “The Forest Stewardship Council”, pp. 366-367.

⁴⁰⁴ Reh binder, “Forest Certification and Environmental Law”, p. 345.

⁴⁰⁵ R. E. Gullison, “Does Forest Certification Conserve Biodiversity?” *Oryx* 37 (2) (2003), pp. 153-165 at p. 155 and p. 163. With the rise of MTCC, the predominance of FSC may no longer be the case.

⁴⁰⁶ Reh binder, “Forest Certification and Environmental Law”, p. 345, citing C. Thoroe, *Abschlußbericht über die Begleitung und Begutachtung des Modellprojektes, Zertifizierung Nachhaltiger Forstwirtschaft in Nordrhein-Westfalen im Raum Ostwestfalen-Lippe, Durchgeführt Auftrag des Ministeriums für Umwelt, Raumordnung und Landwirtschaft* (Hamburg: Bundesforschungsanstalt für Forst- und Holzwirtschaft, Institut für Ökonomie, 2000). Cashore et al, *Confronting Sustainability*, contains four studies of certification in Eastern Europe.

⁴⁰⁷ Gulbrandsen, “Overlapping Public and private Governance”, p. 89, citing Ewald Rametsteiner, *Sustainable Forest Management Certification – Framework Conditions, System Designs and Impact Assessment* (Vienna: Ministerial Council for the Protection of Forests in Europe Liaison Unit, 1999).

⁴⁰⁸ Gulbrandsen, “Overlapping Public and private Governance” p. 89.

⁴⁰⁹ Pattberg, “The Forest Stewardship Council”, p. 366. One business representative interviewed for this study disputed outright the studies conducted by a number of researchers regarding the benefits of FSC certification in Europe as having been written, or commissioned by FSC sympathisers. They considered the German study referred to above as the only credible report, and this found there were no differences between forest stands certified by either PEFC or FSC (personal interview, 09/09/05).

⁴¹⁰ Savcor Indufor Oy, *Effectiveness and Efficiency of FSC and PEFC Forest Certification on Pilot Areas in Nordic Countries* (Helsinki: Federation of Nordic Forest Owners’ Organisations, 2005), at p. 96. FSC’s initial focus was on large-scale forestry, and although it developed group certification options for small-scale private forest owners, these were not adopted (Lars H.

Gulbrandsen, “Explaining Different Approaches to Voluntary Standards: A study of Forest Certification Choices in Norway and Sweden”, *Journal of Environmental Policy and Planning* 7 (1) (2005) pp. 43-59 at p. 54). FSC group scheme appears to be attractive only for institutional forest owners. The environmental protection the standard requires is described as establishing a “critical cost barrier to individual or groups of forest owners” (Savcor Indufor Oy, *Effectiveness and Efficiency of FSC and PEFC Forest Certification*, p. 97 and p. 98). The industry-dominated schemes offered cheaper and more flexible arrangements (Gulbrandsen, “Explaining Different Approaches”, p. 54).

⁴¹¹ Gulbrandsen, “The Effectiveness of Non-State Governance Schemes: A Comparative Study of Forest Certification in Norway and Sweden” *International Environmental Agreements* 5 (2) (2005), pp. 125-149 at p. 128.

⁴¹² Gulbrandsen, “Overlapping Public and Private Governance”, p. 87, citing Ewald Rametsteiner and Markku Simula, “Forest Certification – An Instrument to Promote Sustainable Forest Management?” *Journal of Environmental Management* 67 (1) (2003), pp. 87-98 and Cashore et al, *Governing Through Markets*.

⁴¹³ Gulbrandsen, “Overlapping Public and Private Governance”, p. 87. See also Ozinga, *Behind the Logo*, pp. 17-20.

⁴¹⁴ Gullison, “Does Forest Certification Conserve Biodiversity?” p. 155.

⁴¹⁵ Gulbrandsen, “Overlapping Public and Private Governance”, p. 87. See also Ozinga, *Behind the Logo*, pp. 17-20.

⁴¹⁶ Ozinga, *Footprints in the Forest*, p. 21.

⁴¹⁷ Personal interview, by 23/08/05.

⁴¹⁸ Personal interview, 22/09/05.

⁴¹⁹ They were concerned that certification bodies had too much power when it came to implementation, and this was causing problems with corrective action requests, as there was too much discretion when it came to deciding what were minor and major problems. They felt the new standards would help, but it was important that there were sufficient sanctions in place to ensure certifiers implemented what they were supposed to (personal interview #2, 05/07/05). Another NGO interviewee agreed with this view, adding that FSC was in danger of losing its credibility ‘edge’ over other schemes if it failed to properly verify whether certification bodies were ensuring that standards were being properly implemented on the ground. There were instances of huge discrepancies between certified plantation and natural forest operations, which raised problems regarding the quality of what was after all a performance-based scheme (personal interview #1, 05/07/05).

⁴²⁰ Personal interview, 15/07/05.

⁴²¹ Personal interview #2, 05/07/05.

⁴²² One saw this as an advantage of the system, while the other felt that this excluded too many forest owners from the system, and consequently reduced its geographical spread and impact (personal interviews 25/08/05 and 14/09/06). The second interviewee saw a knock-on effect in the rise of alternative certification systems, which had undermined the value of certification further by introducing confusion in the market place, and encouraging the use of other less sustainable products such as plastic. The demands the system placed on forestry companies went beyond the realm of forest policy (personal interview, 14/09/06).

⁴²³ One business interviewee considered it inappropriate to interpret international standards at a local level, especially when that interpretation varied so greatly according to which certifier was doing so, and what the local conditions were. It had been premature to do so in their country (personal interview, 15/07/05). FSC's desire to expand its certified area in the absence of national standards was a big problem. It had the impact of undermining what participatory structures FSC had in place at the national level, and often resulted in inadequate levels of consultation, as comprehensive processes simply did not exist in the absence of national standards. This was demonstrated by the fact that if people had complained to FSC about lack of consultation their grievances were usually upheld (personal interview #2, 05/07/05). Given that FSC was created to solve problems on the ground, weakening the struggles of local people was a serious issue FSC needed to consider (personal interview #1, 05/07/05).

⁴²⁴ Personal interview #3, 14/07/05.

⁴²⁵ Personal interview, 15/09/06. Speeding things up might not include so many stakeholders but the intention of the process was to secure forests for future generations (Personal interview #1, 11/07/05). One business representative commented that FSC was intended to be economically viable as well as socially and environmentally beneficial. The standard had the potential to drastically reduce timber volumes, effectively turning private forests into public goods, which was making it a market failure. The money and the time required for negotiation made the process very intensive and protracted (personal interview, 15/09/06).

⁴²⁶ Personal interview, 12/07/05 and personal interview #2, 05/07/05.

⁴²⁷ Personal interview #2, 05/07/05.

⁴²⁸ FSC, "General Requirements for FSC Accredited Certification Bodies: Application of ISO/IEC Guide 65:1996 (E)", FSC Standard FSC-STD-20-001, Version 2.1, November 2004, p. 1. The phrase "consistent, reliable and credible" is used in the introduction to a number of FSC standards concerning the activities of certification bodies.

⁴²⁹ FSC, "Qualifications for FSC Certification Body Auditors", FSC Standard FSC-STD-20-004, Version 2.2, November 2005, p.3. The phrase "to improve the quality and consistency of certification decisions" would appear to imply that that this has not always been the case previously.

⁴³⁰ FSC, “Forest Pre-evaluation Visits”, FSC Standard FSC-STD-20-005, Version 2.1, November 2004, FSC, “Forest Management Evaluation”, FSC Standard FSC-STD-20-007 Version 2.1, November 2004, 18 pp.

⁴³¹ See FSC-STD-20-003 and FSC-STD-20-006.

⁴³² Humphreys, *Logjam*, p. 124.

⁴³³ Humphreys, “The Certification Wars”, p. 15.

⁴³⁴ Gulbrandsen, “Overlapping Public and Private Governance”, p. 87. See also Ozinga, *Behind the Logo*, pp. 9-10.

⁴³⁵ Tollefson et al, *Setting the Standard*, p. 251, citing Cary Coglianese and D. Lazar, “Management-based regulation: prescribing Private Management to Achieve Public Goals”, *Law and Society Review* (37) (2003), pp. 691-730.

⁴³⁶ Tollefson et al *Setting the Standard*, pp. 259-260.

⁴³⁷ Tollefson et al, *Setting the Standard*, p. 260.

⁴³⁸ In the case of Sweden for example, FSC standard has been portrayed as being greatly simplified in comparison to other standards, even if it still more stringent and less discretionary than the PEFC national standard. Differences exist also in North America, where the Canadian Maritimes standard is more rigorous and comprehensive than that developed for the Northeast US. There are also variations in the auditing practices of certifiers. A claim has been made however that the positive impact of audits under FSC system are likely to be greater than those undertaken by rival schemes, whose standards are more flexible. The greater flexibility of these schemes has arisen from the fact forest owners perceived FSC’s interpretation and application of standards as too stringent and lacking in flexibility (Gulbrandsen, “Overlapping Public and Private Governance”, pp. 88-91).

⁴³⁹ Gulbrandsen, “Sustainable Forestry in Sweden”, pp. 349-351.

⁴⁴⁰ Pattberg, “The Forest Stewardship Council”, p. 370.

⁴⁴¹ Personal interviews, 15/09/06 and 12/07/05.

⁴⁴² Personal interview, 16/09/05.

⁴⁴³ Personal interview, 12/07/05.

⁴⁴⁴ Personal interview, 14/09/06.

⁴⁴⁵ Personal interview #1, 11/07/05. By contrast the PEFC did not require countries to adhere to all the fundamentals. It was possible to “tweak” FSC system, but it required a certain amount of technical capacity to do so (ibid).

⁴⁴⁶ Personal interview #2, 11/07/05. They felt this was not the case with the PEFC (ibid).

⁴⁴⁷ Personal interview, 16/09/05. They argued that because there was so much variability across FSC it was not reliable as an international certification system. This was the reason it had not been admitted to the International Accreditation Forum (ibid).

⁴⁴⁸ Personal interview, 23/08/05.

⁴⁴⁹ Personal interview #2, 05/07/05.

⁴⁵⁰ Personal interview, 14/09/06.

⁴⁵¹ FSC, “FSC Governance Review Process Final Proposals Based on Consultative Process Held During 2007-2008”, October 3, 2008, p. 3.

⁴⁵² Ibid.

⁴⁵³ FSC, “FSC Governance Review Process”, pp. 3-4. The author contributed some of the contents of this chapter to this process.

⁴⁵⁴ FSC, “FSC Governance Review Process”, p. 4; FSC, “FSC Governance Review”, <http://www.fsc.org/governance-review.html>, accessed 15/01/08.

⁴⁵⁵ FSC, “FSC Governance Review Process”, pp. 7-9.

⁴⁵⁶ FSC, “FSC Governance Review Process”, p. 14.

⁴⁵⁷ FSC, “FSC Governance Review Process”, pp. 7-9.

⁴⁵⁸ FSC, “FSC Governance Review Process”, p. 14.

⁴⁵⁹ FSC, “FSC Governance Review Process”, p. 2.

⁴⁶⁰ FSC, “FSC Governance Review Process”, p. 10.

⁴⁶¹ FSC, “FSC Governance Review Process”, p. 2.

⁴⁶² FSC, “FSC Governance Review Process”, p. 10.

⁴⁶³ FSC, “FSC Governance Review Process”, p. 2.

⁴⁶⁴ Ibid.

⁴⁶⁵ FSC, “FSC Governance Review Process”, p. 11.

⁴⁶⁶ FSC, “FSC Governance Review Process”, p. 11.

⁴⁶⁷ FSC, “FSC Governance Review Process”, p. 16.

⁴⁶⁸ FSC, “FSC Governance Review Process”, p. 4; FSC, “FSC Governance Review”, <http://www.fsc.org/governance-review.html>, accessed 15/01/08.

⁴⁶⁹ Motions 2, 4 and 5, FSC, “Final Motions and Results From the FSC General Assembly 2008” (undated), p. 1.

⁴⁷⁰ Motion 6, FSC, “Final Motions and Results From the FSC General Assembly 2008”, p. 11.

⁴⁷¹ A fascinating article by Karin Bäckstrand and Eva Lövbrand, “Planting Trees to Mitigate Climate Change: Contested Discourses of Ecological Modernization, Green Governmentality and Civic Environmentalism” *Global Environmental Politics* 6 (1) (2006), pp. 51-75 delineates these discourses in some detail and their inherent tensions, most of which are played out in FSC, which appears to combine elements of all three.

⁴⁷² See Elliott, *Forest Certification*, p. 217.

⁴⁷³ This is apparent in the British Columbia Regional Standard, as argued by Tollefson et al, *Setting the Standard*, pp. 78-101.

ISO and the 14000 Series (Environmental Management Systems)¹

Introduction

This chapter examines the expression of contemporary global governance within ISO's 14000 Series of standards. Because these standards were developed within a broader institutional context, it has at times been necessary to look both at ISO itself, and the technical committee (TC 207) under which the 14000 Series was developed. As a result, the assessment of the governance quality of the 14000 Series cannot be viewed in isolation from of ISO as a whole, and the evaluation of the Series consequently acknowledges this institutional context. As an institution, ISO as a whole is much older than FSC, but the 14000 Series is contemporaneous. It conforms much less closely to the non-state ideals of FSC, and consequently confronts a different set of governance issues, explored below. The chapter begins with a descriptive account of ISO and TC 207's history, general governance, connections to forest management, and institutional classification. This is followed by an analytical section, which looks more specifically at the governance attributes of TC 207 from the perspectives of the ISO itself, the scholarly literature and other commentaries, and a number of key informants interviewed for this study. The final sections provide an evaluation based on the materials discussed, and finishes with some concluding observations.

Historical Overview

ISO, derived from the Greek word *isos*, meaning equal, also known as the International Organisation for Standardisation, develops international standards

for products, services, processes, materials and systems, as well as for conformity assessment and managerial and organisational practice.² International standardisation began in the electrotechnical field with the creation of the International Electrotechnical Commission (IEC) in 1906, and was followed by the creation of the International Federation of National Standardising Associations (ISA) in 1926.³ ISA's activities ceased in 1942 on account of the Second World War, and in 1946 delegates from 25 countries met in London to create a new body, ISO, which commenced work on February 23 1947.⁴ ISO's role is to "promote the development of standardisation and related activities in the world with a view to facilitating international exchange of goods and services and to developing cooperation in the spheres of intellectual scientific, technological and economic activity."⁵ It has developed over 15,000 international standards through a network of 156 national bodies and 580 liaison organisations.⁶

ISO moved into the arena of social and environmental standard setting relatively recently.⁷ The origins of the 14000 Series have been linked to an evolution beyond ISO's traditional product standards to the process standards of the 1980s, exemplified by the ISO 9000 (quality management systems, or QMS) standards.⁸ The 9000 Series has been characterised as representing ISO's first efforts to certify management practices, as opposed to compliance against a technical norm.⁹ The broad uptake of this standard led many national standards bodies to see the need for a certifiable environmental management system (EMS).¹⁰ The ISO 14000 Series of standards in turn delineated the environmental management system requirements for firms seeking to become certified.¹¹

The Rio Earth Summit played an important role in the negotiations over environmental management standards.¹² It has been argued that the standards that

emerged in the post-Rio context demonstrated the failure of previous international efforts to govern the environmental and social activities of trans-national corporations.¹³ Earlier negotiations had been underway since 1977 under the auspices of the UN Center for Transnational Corporations (UNCTC), regarding the creation of a corporate code of conduct, which included environmental provisions. According to NGOs the UNCTC was dismantled shortly before Rio, under pressure from the US and the International Chamber of Commerce (ICC). This left the way open for “voluntary, self-regulatory initiatives developed by corporate actors themselves.”¹⁴ Several commentators see the approach adopted at Rio as a result of the considerable high level of corporate involvement.¹⁵

There is certainly plenty of evidence of extensive activity to develop environmental management standards prior to Rio. Following the widespread and successful piloting of British Standard 7750 the EU Commission submitted a proposal to the European Environmental Council for the adoption of a regulation for the creation of an Environmental Management and Audit Scheme (EMAS).¹⁶ This scheme was voluntary, but did require participating industries to make a commitment to continually improving their environmental performance and subjecting themselves to an external audit by an accredited verifier if they wished to be certified.¹⁷

In 1991 the ICC and the Business Council for Sustainable Development approached ISO to develop an EMS.¹⁸ The Rio organisers made similar requests.¹⁹ ISO’s response was to establish the Strategic Advisory Group for the Environment (SAGE) to review the possibility.²⁰ The success of industry in achieving a voluntary approach to environmental management was reflected in the outcome document of the Rio negotiations, *Agenda 21*. Both private

businesses and industry associations were encouraged to adopt such an approach, the aim of which was to promote clean production and reduce hazardous waste generated by industrial activity.²¹ After determining that the knowledge required for the development of environmental management standards was sufficiently distinct from that required for quality management, SAGE recommended the formation of a new ISO technical committee.²² As a result, environmental concerns were not subordinated to issues of quality, and standards development was not located within the technical committee with this purview, TC 176.²³ SAGE's work on environmental management was instrumental in the ISO/IEC recommendations and input into the UNCED preparatory conference in January 1992. SAGE's recommendations ultimately became key elements in the substantive documents of UNCED, contributing to the comprehensive policy guidance contained in *Agenda 21* as well as the Rio Declaration itself, which delineated the broader principles underpinning sustainable development.²⁴ Within ISO, its separation of environmental management from quality management resulted in the decision to form a new technical committee, TC 207.²⁵

It is important to note the global trade environment in which both the ISO EMS and the EMAS were developed, especially the influence of Uruguay Round of negotiations and the creation of the World Trade Organisation. Here, voluntary process (as opposed to product) standards were encouraged as a means of addressing environmental concerns without violating trade rules.²⁶ Both schemes have been portrayed as seeking to pre-empt the proliferation of national environmental laws, which, it was seen, could act as barriers to trade.²⁷ However, there were some differences between the two approaches adopted, particularly since the EMAS deliberations were national and regional initiatives, leaving them

problematic on an international -- as opposed to European -- level.²⁸ Secondly, as was to transpire once the ISO 14001 standard was released, differences existed in the reporting requirements in the two systems, and the strength of language used. ISO 14001 was -- and continues to be -- less explicit about exactly what degree of continual improvement was expected in environmental performance, and unlike EMAS did not originally require participants in the scheme to publish an environmental statement.²⁹

At the same time, however, the transition into areas relating to environmental sustainability, notably in the 14000 Series, has exposed the organisation to a broader discussion about the governance of such initiatives, particularly in matters relating to stakeholder participation.³⁰ ISO's outputs are recognised as the world's trade-legal standards under the World Trade Organisation's Technical Barriers to Trade (TBT) Agreement, and it now wields significant influence on the global social-political scene with business, governments and civil society.³¹ This transition has not occurred solely within ISO and includes individual initiatives by industrial sectors such as Responsible Care in the 1980s, as well as the creation of national EMS standards, exemplified by the British Standard 7750.³²

A Brief History of TC 207

TC 207 was established in 1993 to develop a new series of standards covering environmental management, tools and systems.³³ ISO stresses that:

ISO TC/207 does not set limit levels or performance criteria for operations or products; instead, its activities are based on the philosophy that improving management practices is the best way to improve the environmental performance of organizations and their products...By providing a framework for improved environmental performance [TC 207's standards] will be contributing to one of the key purposes of environmental management standards: they will be contributing to the goal of sustainable development.³⁴

TC 207 held its inaugural plenary session in Toronto in June 1993, establishing subcommittees (SCs) with responsibility for six specific aspects of environmental management: environmental management systems (EMS - SC1); environmental auditing (EA - SC2); environmental labelling (EL - SC3); environmental performance evaluation (EPE - SC4) and life cycle assessment (LCA - SC5); a final technical group covered terms and definitions.³⁵ SC7 (Greenhouse Gas Management and Related Activities) is a more recent addition.³⁶ In addition to the specific task-related working groups of the sub-committees, TC 207 has established various other working groups (WGs): environmental aspects of product standards: (EAPS - WG1); forestry (WG2, now disbanded); design for the environment (DFE - WG3, now disbanded) and environmental communications (EC - WG4).³⁷

The specific importance of TC 207 to social and environmental interests is noted in the literature and their lack of involvement in the early stages of standards development became the subject of demands for improved participation.³⁸ TC 207 first recognised the problem of under-representation in 1998, creating an NGO Contact Group to ascertain NGO attitudes regarding its work.³⁹ Based on its findings, an NGO Task Group was formed in 2001, which produced two reports containing recommendations on how to expand and enhance NGO participation in standards development.⁴⁰ In 2003 a higher-level task force was created, the NGO-Chairman's Advisory Group (CAG), consisting of four NGOs and four representatives of the CAG, to review the recommendations of the 2001 task group.⁴¹ Meanwhile, NGOs also developed their own independent forum to solicit input from their constituents to feed into the task force.⁴² Whilst speaking largely to its own internal audience, the task force nevertheless

recognised the importance of external “stakeholders” as well.⁴³ Three categories of obstacles to NGO participation relating to capacity, structure and process were identified.⁴⁴ Whilst stating that it was not directly responsible for financing and sustaining NGOs in ISO 14000 development, it accepted that TC 207 could do more to encourage national standards bodies to engage NGOs domestically and help find ways to fund NGO involvement.⁴⁵ Although TC 207 was largely exculpated from blame, the report did stress that where necessary, changes should be made within the national standards bodies, and to the category of membership, liaison organisation, to which most NGOs belonged.⁴⁶

In a separate move, TC 207 initiated a review of its Strategic Plan, including its scope, through a separate subcommittee, the Future Vision Task Force, in July 2002.⁴⁷ Part of its role was to identify trends affecting environmental management over the following 5-10 years. One aspect of these investigations was to look at the governance structure and procedures of TC 207. The Task Force identified the need for TC 207 to have effective control over strategic planning and implementation in a more centralised manner. The purpose of this, it was suggested, was to make it “ready to deal with the growing number and diversity of stakeholders that are now interested in international environmental standardization.”⁴⁸

In September 2004 the Task Force plan went to members for ballot.⁴⁹ All fourteen recommendations were accepted, and a five-point plan representing the essential initial elements was presented as phase one of a longer term plan.⁵⁰ The task force was assigned the role of reviewing those Directives relevant to participation and developing operational guidance, as well as assisting in implementing the first phase. Further, it was to develop a work plan for further

efforts to improve NGO participation. The chair and secretary of TC 207 were to review and document those elements of the TC's governance structure relating to the way decisions were made and implemented. Both the chair and the secretariat were to work with national standards bodies to analyse and track progress on their efforts to have balanced stakeholder representation at international meetings, particularly at the Working Group level.⁵¹ The work plan was approved overwhelmingly by the ballot in December 2004, and began to be implemented over 2005.⁵² In February 2007 the task force released a report containing draft recommendations for operational guidance to improve the balance of stakeholder participation, based on a review of the relevant parts of the ISO Directives.⁵³ This guidance covered the issue areas pertaining to consensus, balanced representation, the role of liaison organisation members, procedural issues regarding standards development, and appeals.⁵⁴

Forestry-related Controversies Within TC 207

Of the TC 207 subcommittees SC1 and SC3 are of most relevance to forest management.⁵⁵ ISO 14001, generated by SC1, was at first quickly adopted by the forest industry for certification purposes.⁵⁶ By 2003, of the 33,950 ISO 14001 certificates issued across all industrial sectors, 1,223 were awarded to the forest product industries, ranking them eleventh out of the sectors seeking certification.⁵⁷ At the third plenary meeting of TC 207 in Oslo in 1995 the member bodies of Canada and Australia submitted a new work item proposal to develop an application guide for the forest industry based on ISO 14001.⁵⁸ The proposal had the clear intention of creating a link between the certification under ISO 14001 and SFM.⁵⁹ One impetus for the proposal appears to have been the Canadian forest industries wish to gain international recognition for the Canadian

Standard Association (CSA) standard for SFM, which was being developed at that time.⁶⁰

At the meeting environmental NGOs “expressed concerns that such a sector guide could be misapplied.”⁶¹ Environmental NGO concerns can be traced back to the decision that ISO 14001 would not establish absolute requirements for environmental performance, and that companies with different levels of performance could be in compliance. Although ISO 14001 could not be used to communicate environmental performance to the public, there was a fear that EMS certification would nevertheless be used to give the impression that a company had been awarded an environmental label.⁶² The development of the Canadian CSA standard had occurred in a highly charged political context.⁶³ Canadian environment groups refused to participate in the technical committee associated with the CSA standard. They expressed concerns regarding the systems- rather than performance-based approach, the lack of public participation in standards development, and the possibility that their attendance would be misrepresented, giving the system an undeserved credibility.⁶⁴ In the same month as the Oslo meeting, Greenpeace, as part of a broader campaign aimed at defending FSC, issued a statement signed by over 50 environmental NGOs condemning the CSA initiative as a “flawed process” and calling for a new approach, which included the “expertise and interests of environmental, aboriginal, scientific and community groups.”⁶⁵

Consequently “the issue aroused some controversy” at the Oslo meeting.⁶⁶ Greenpeace and other NGOs opposed the proposal on the basis that an EMS was not an adequate measure of sustainability if it lacked performance requirements. They also questioned the adequacy of interest representation in ISO’s discussions

regarding SFM.⁶⁷ ISO members were split between supporters and opponents of the initiative, the latter feeling that the proposal for a sector guide approach would weaken the core EMS documents.⁶⁸ By the concluding plenary it was clear that more discussion was needed, and Canada and Australia asked that the new proposal for a formal work item be reclassified as an item for discussion. It was agreed that a broadly based group of interests would discuss ISO's role in SFM over the next year. The group was to include representatives from TC 207, consumer groups, industry and environmental NGOs such as Greenpeace and WWF.⁶⁹ The Canadian and Australian initiative as it had originally stood was therefore withdrawn.⁷⁰

The failure of Canada and Australia has been attributed to four factors. Firstly, CSA appears to have underestimated the degree of coordination between NGOs, who were able to gain observer status at Oslo and fight against what they interpreted as an attack on the FSC. Secondly, it is also possible that in seeking to gain international recognition for the Canadian standard and also appearing to try to undermine the FSC, CSA and the Canadian forest industries were overambitious. Thirdly, CSA did not factor in the opposition of member bodies to sector-specific standards. Finally, although supported by the Australian national standards body, Canada was unable to secure further support. Opposition to forest certification per se (in the case of the US member body), contrasted with support for the FSC (in the case of Sweden), may have contributed to this.⁷¹

But as the following events were to demonstrate, the campaign was far from over. Discussions over the next year took the form of an "informal study group" established by ISO's New Zealand member body (Standards New Zealand).⁷² There was agreement that it would exist outside of TC 207 and meet prior to the

1996 plenary meeting of TC 207. The initiative fell foul of environmental groups from its first meeting. Despite being informal the process was seen as being linked too closely to ISO, especially since attendance was limited to ISO members, although the rule was selectively applied. Greenpeace was initially denied access, only to be invited on the day of the meeting. NGOs claimed that their input into the first meeting was systematically ignored -- particularly suggestions that sought to expand discussions regarding forest certification beyond the EMS approach. The minutes wrongly claimed that there was consensus that ISO 14001 was a suitable framework for forest certification. NGOs did not participate in the second meeting.⁷³

The study group submitted a report to the 1996 TC 207 plenary identifying TC 207 as the most appropriate body to address the issue, recommending that a bridging document be developed to provide information as to how ISO 14001 should be applied in the context of forest management.⁷⁴ The report was accepted, and TC 207 resolved to establish a new working group, WG2, to develop the document.⁷⁵ The resolution was resolved by 15 to 14 votes.⁷⁶ At the same plenary environmental NGOs failed to gain acceptance of a resolution clarifying and limiting the claims that could be made about EMS certification.⁷⁷ The convener of the working group, Ken Shirley, was the same person who had headed the informal study group for Standards New Zealand. The secretariat was given to Canada, to be managed by CSA on behalf of the Standards Council of Canada. The working group document was not to specify performance levels for forestry, nor was it to be used to form the basis for environmental performance claims or for product labelling schemes. The working group met first in Toronto in

November 1996, and the report was published as a technical report (TR) ISO TR 14061 in 1998.⁷⁸

Despite previous NGO objections a connection nevertheless exists between forest management performance in ISO 14001 and TR 14061, which was described as a ‘bridging’ method for creating a procedural relationship between a company’s ISO 14001 certification and its environmental performance under a given forest management programme.⁷⁹ This relationship was established in a number of ways. Firstly, by soliciting the views of interested parties, the public participation processes under a given forest management programme were fed into a company’s own environmental policy, objectives and targets. Secondly, the indicators and specific requirements for SFM under the programme were developed into measurable performance requirements applicable to the company’s own environmental policy. Thirdly, the indicators for SFM were defined by the specific programme and become performance measures, which were fed into the company’s own policy-related monitoring and measurement procedures. Fourthly, the forest programme’s on-the-ground performance was measured and also fed into the company’s own monitoring and measurement procedures. The performance data was reviewed against the company’s own stated policy objectives and targets, and fed into the final stage of ISO 14001, the audit and review.⁸⁰

One commentator, writing before the publication of the final technical report both criticised -- and anticipated -- the nature of ISO TR 14061, arguing that such an approach had the potential to “encourage companies to chose the set of standards they wish amongst the Helsinki C&I, Montréal C&I, ITTO criteria and FSC [P&C], etc, using EMS as a framework.”⁸¹ Advocates of ISO TR 14061

supported this assertion, and argued that ISO 14001 was compatible with all of the various non-governmental and intergovernmental initiatives that have been established in the wake of *Agenda 21* and the *Statement of Forest Principles*.⁸² The intergovernmental approach was portrayed as constituting different sets of C&I for SFM, which were “intended to assess the sustainability of the forest management at the national level.”⁸³ On the other hand it was argued, there were examples, such as the Forest Stewardship Council certification scheme, whose principles and criteria related “to forest management objectives to be achieved with respect to the maintenance of the forest eco-system, as well as the ecological, social and economic functions of the forest.”⁸⁴

Some observations from the academic forestry literature should be made at this point concerning the difference between the two approaches. Firstly, it is quite possible that standards developed for monitoring and reporting environmental performance at a regional and national level will not be compatible with those, which assess the quality of forest management at the level of the forest management unit (FMU).⁸⁵ Secondly, national standards have been developed for reporting sustainability at the national level, whereas the focus for assessing sustainability under a certification scheme is at the FMU level.⁸⁶ Thirdly, these various standards are based on widely ranging definitions of terms, making comparison between them difficult. Consequently, the requirements for SFM imposed by these different types of standard makes the comparison of one with another difficult.⁸⁷

The forest controversy surrounding the Canadian and Australian proposal for ISO 14001 inevitably played itself out within SC3 and the discussions around environmental labels. Firstly, concerns were raised within analyses sympathetic to

the NGO viewpoint, that the possible misuse of ISO14001 might exempt forest certification from environmental labelling altogether.⁸⁸ The reason for such a strategy it was argued was on account of the stringency of some environmental labels. It was an attempt by “less progressive elements in the international forest trade” to avoid the environmental improvements that an environmental label such as the FSC would require.⁸⁹ The second issue affecting the labelling debate related to SC3’s failure to examine “single-issue” labels, which only related to one aspect in the life cycle of the product -- the extraction of the timber.⁹⁰ Single-issue labels it was argued -- such as those granted under the FSC system -- could still be comprehensive, as they employed wide ranging principles and criteria, which ensured consistency in environmental requirements, and required third-party verification.⁹¹ However, ISO 14020, the standard covering the general principles for environmental labels and declarations, was intended to cover all eco-labels.⁹² This created the potential that it could override all other standards on environmental labelling, currently existing (like FSC) or in the future.⁹³ It was also designed to be broadly compatible with the forest certification related aspects of the Intergovernmental Panel on Forests (IPF) -- including the emerging and industry-preferred competitors to FSC.⁹⁴ Canada’s CSA standard used criteria similar to those of the IPF.⁹⁵ Arguments over the guidelines for all types of labelling occurred largely in WG3, where it appears that NGO initiatives to change the content and direction of ISO 14020 were consistently overruled by narrow margins.⁹⁶ This was to lead to an observation that “WG3 is the perfect example of a working group where consensus has not been achieved.”⁹⁷

Governance Within ISO

System Participants

Oberthür et al, referred to extensively below, provide a detailed commentary on ISO's membership. The status of members differs considerably from country to country. While most are non-governmental corporate bodies, others might be government or quasi-governmental institutions.⁹⁸ There are several categories of interest groups recognised within ISO, and seven generally associated with ISO TC 207: industry (representing a specific professional group, or individual); consultant and registrar (engineering, technical, training and accreditation service providers related to ISO 14000 standards and ISO 14001 certification); standards organisations (also including ISO 14001 certifiers, where they are also standards bodies); government (representatives from ministries or agencies, excluding standards bodies if they are public entities); research (research or academic institutions); NGO (such as consumer organisations, environmental advocacy groups and other civil society representatives); and other (groups that do not fit into other categories such as financial institutions, media and intergovernmental organisations such as OECD and UNCTAD).⁹⁹

ISO membership is broken down into three categories. A *member body* of ISO is “a national body most representative of standardization in its country.”¹⁰⁰ Only one such member body per country is allowed, and it may participate and exercise voting rights on any policy or technical committee within ISO.¹⁰¹ Such members are referred to as participating, or P-members.¹⁰² ISO currently has member bodies representing 150 countries.¹⁰³ A second category, the *correspondent member*, “is usually an organization in a country which does not yet have a fully developed national standards activity.”¹⁰⁴ Such a member may not participate

actively in policy and technical committees, although they are kept informed, and may use any standards developed in their own country.¹⁰⁵ They may observe, but not vote in the General Assembly.¹⁰⁶ Correspondent members, as well as member bodies, who choose not to participate actively within committees, are referred to as observers, or O-members.¹⁰⁷ A third category, the *subscriber member*, also exists for countries with very small economies, who pay a reduced membership fee, but who do no more than “maintain contact with international standardization.”¹⁰⁸ They may attend General Assemblies as observers.¹⁰⁹ They do not appear in the category of O-members for technical and policy committees.¹¹⁰

ISO also has formal relations with a range of international organisations, the intention being to “complement the network of its national members.”¹¹¹ These organisations participate in ISO’s work in a number of ways. They may influence ISO through its Central Secretariat, or they may be directly involved within an ISO technical committee, as advisory experts. They constitute a further sub-category of participant, and are referred to as a *liaison member*, or occasionally as L-members.¹¹² These include consumer groups as well as industry associations, intergovernmental organisations and UN agencies.¹¹³ Other specific sectors of civil society are also included in this category.¹¹⁴

Liaison organisations are themselves broken down into four categories. Category A organisations make an effective contribution to the work of a technical committee or subcommittee. They receive all relevant documents and are invited to meetings. They may also nominate experts to participate in an ISO working group or project team. Category B refers to organisations that wish to be kept informed of the work of a technical committee or subcommittee. They are entitled to receive the reports on the work of any relevant committee. Category C

is reserved for the ISO/IEC Joint Technical Committee 1 on Information Technology. Category D is for those organisations that wish to participate in the specific work of a working group or project team. They receive all relevant documents and are invited to working group or project team meetings. Category A and D organisations can coincide where the former nominates an expert to participate in a specific working group or project team.¹¹⁵ Obligations run both ways between ISO and liaison organisations, with expectations that both contribute suitably to each other's work.¹¹⁶ Participation of liaison organisations within ISO is convoluted and constrained. ISO's Secretary-General, in consultation with the relevant technical committee secretariat, is responsible for establishing such liaisons. The status of such liaisons is centrally recorded and reported to the Technical Management Board.¹¹⁷ The procedure for approving such liaison organisations by a technical committee is subject to the consultation and unanimous approval of all P-members in the committee. If not, applications are dealt with on a case-by-case basis.¹¹⁸

Individuals cannot be members of ISO, and are reliant on the national member bodies to include them in their participatory structures.¹¹⁹ Individuals contribute to standards development through selection by ISO members to serve on national delegations to ISO technical committees and they may also provide input during “the process of developing a national consensus for presentation by the delegation.”¹²⁰

Institutional Arrangements

ISO characterises itself as a voluntary, market-driven, consensus, worldwide, system, and a non-governmental organisation.¹²¹ It makes the following qualifications, however:

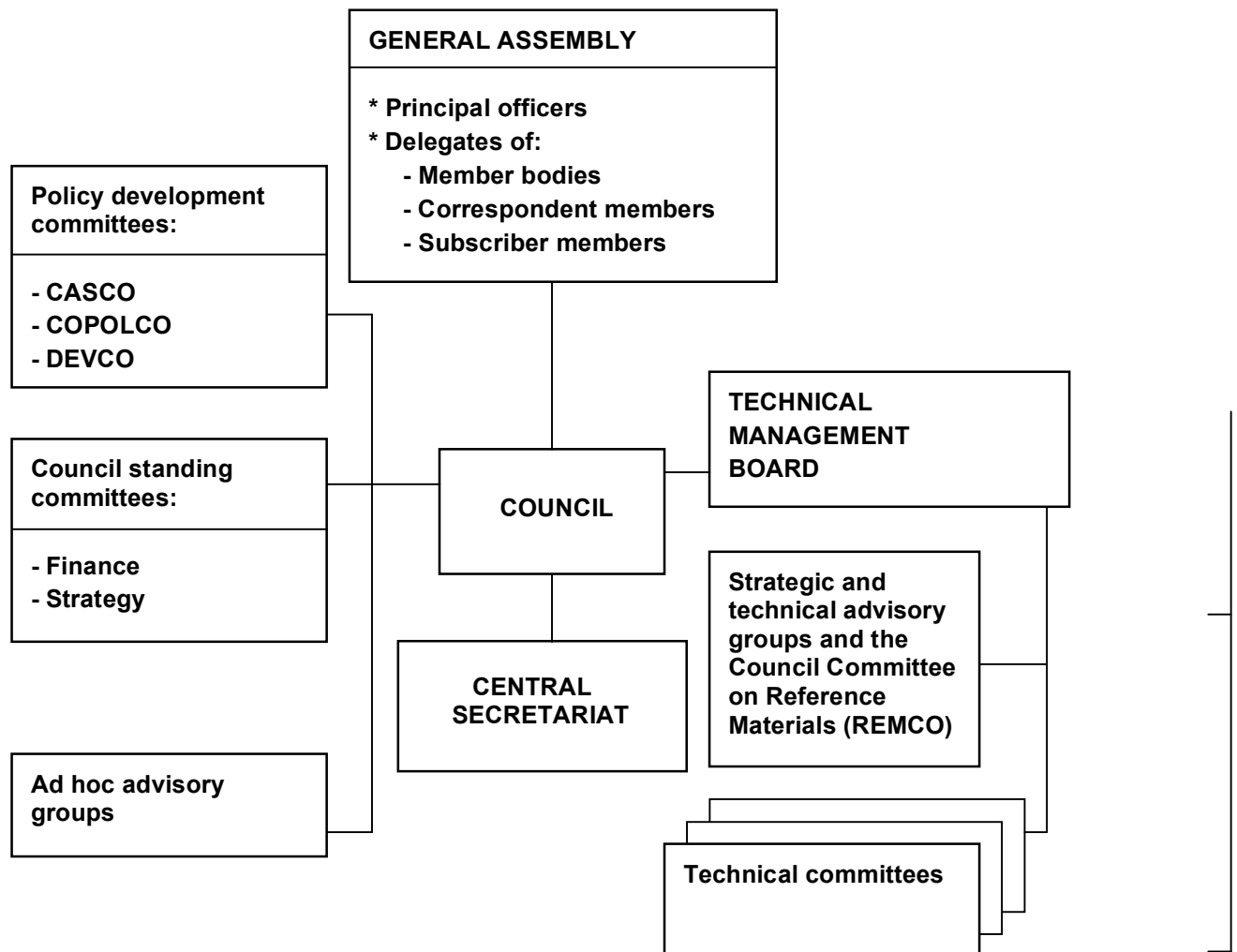
Its members are not, as in the case of in the United Nations system, delegations of national governments. Nevertheless, ISO occupies a special position between the public and private sectors. This is because, on the one hand, many of its member institutes are part of the governmental structure of their countries, or are mandated by their government. On the other hand, other members have their roots uniquely in the private sector, having been set up by national partnerships of industry associations.¹²²

International Level

Various institutional entities exist within ISO (see Figure 5.1 below). A General Assembly consisting of ISO members meets annually to make decisions of a broad strategic nature.¹²³ For the purposes of organisational development, the General Assembly may establish advisory committees.¹²⁴ As a body, the General Assembly consists of the officers of the organisation (President, two Vice-presidents, a Treasurer and a Secretary-General) and no more than three delegates per member body.¹²⁵ Delegations may also contain additional observers, and correspondent and subscriber members may also attend as observers.¹²⁶ Each member body has only one vote, however.¹²⁷ Resolutions are adopted in the General Assembly itself or via letter ballot by majority vote.¹²⁸ ISO's general orientation is currently driven by its *Strategic Plan 2005-2010*, which was approved by the General Assembly in 2004.¹²⁹ The proposals put to the members of the General Assembly are developed in advance by the ISO Council, which ISO itself describes as a "business-style" board of directors, consisting of representatives from the membership as a whole.¹³⁰ It consists of the Officers of the organisation and eighteen members elected in accordance with ISO's Rules of Procedure.¹³¹ The Council has the right to establish ad hoc advisory groups consisting of executive level leaders of organisations with a major interest in international standardisation.¹³² Three policy development committees -- conformity assessment (CASCO), consumer matters (COPOLCO) and developing

country matters (DEVCO) -- and two standing committees -- finance and strategy -- report directly to the Council.¹³³ The Council meets twice a year, and the positions within it are rotated. It is chaired by a president, who holds the position for two years and who is “a prominent figure in standardization or business.”¹³⁴

Figure 5.1 Structure of ISO



Source: ISO, 2008.¹³⁵

ISO’s Secretary-General reports to the Council and operates out of a Central Secretariat in Geneva and is permanently appointed. A “compact staff” of approximately 160 at the Central Secretariat provides members with administrative and technical support and coordinates and publishes the organisation’s standards development programme.¹³⁶

The technical work associated with standards development is overseen by the Technical Management Board (TMB), which is responsible for establishing technical advisory groups (TAGs) and technical committees. The technical committees are created to “serve specific industries or generic subjects, in order to develop international standards or other ISO publications appropriate to the needs of that sector.”¹³⁷ The TMB consists of a chair and twelve member bodies, either appointed or elected by the Council.¹³⁸ Technical committees may establish subcommittees to look at specific elements required for standards under development, and working groups, whose role is to examine particular tasks related to an overall programme.¹³⁹ The TMB must ratify these entities.¹⁴⁰ Technical committees may also set up further advisory groups, study groups, ad hoc groups and editing committees to support their activities.¹⁴¹ Decisions concerning a committee’s overall policy and strategy are made at the technical and subcommittee levels. These bodies are managed by a committee secretariat, provided by one of the ISO members. The working group level is reserved for researching and drafting, and managed by a convener.¹⁴² Committee secretariats are required to be neutral, and must consist of a P-member of the committee. Committee secretaries work with the chair in managing the committee’s work programme.¹⁴³ Committees are also assigned a technical programme manager (TPM) to act as a contact point between the committee and ISO’s staff and governance structures.¹⁴⁴

National Level

Member bodies are permitted to use ISO standards as a basis for their own national standards.¹⁴⁵ They attempt to follow the development of international standards domestically through the establishment of what are generally referred to

as “mirror committees”, although the exact nature of these committees varies by country.¹⁴⁶ A national member body may create a technical advisory group to develop national level positions for consideration at the international level, and may send three member body delegates and other observers to attend international technical committee meetings, as either a P- or O-member.¹⁴⁷ NGOs do in some instances participate both in national standards bodies and their technical advisory groups. They may also be present within national member delegations to ISO meetings.¹⁴⁸

Standards Development

The development of international standards is a decentralised process, undertaken through technical committees at both national and international levels and involving stakeholders across the ISO “network.”¹⁴⁹ Standards development follows several recognised stages (see Table 5.1 below).¹⁵⁰

Table 5.1 Stages in the development of ISO International Standards

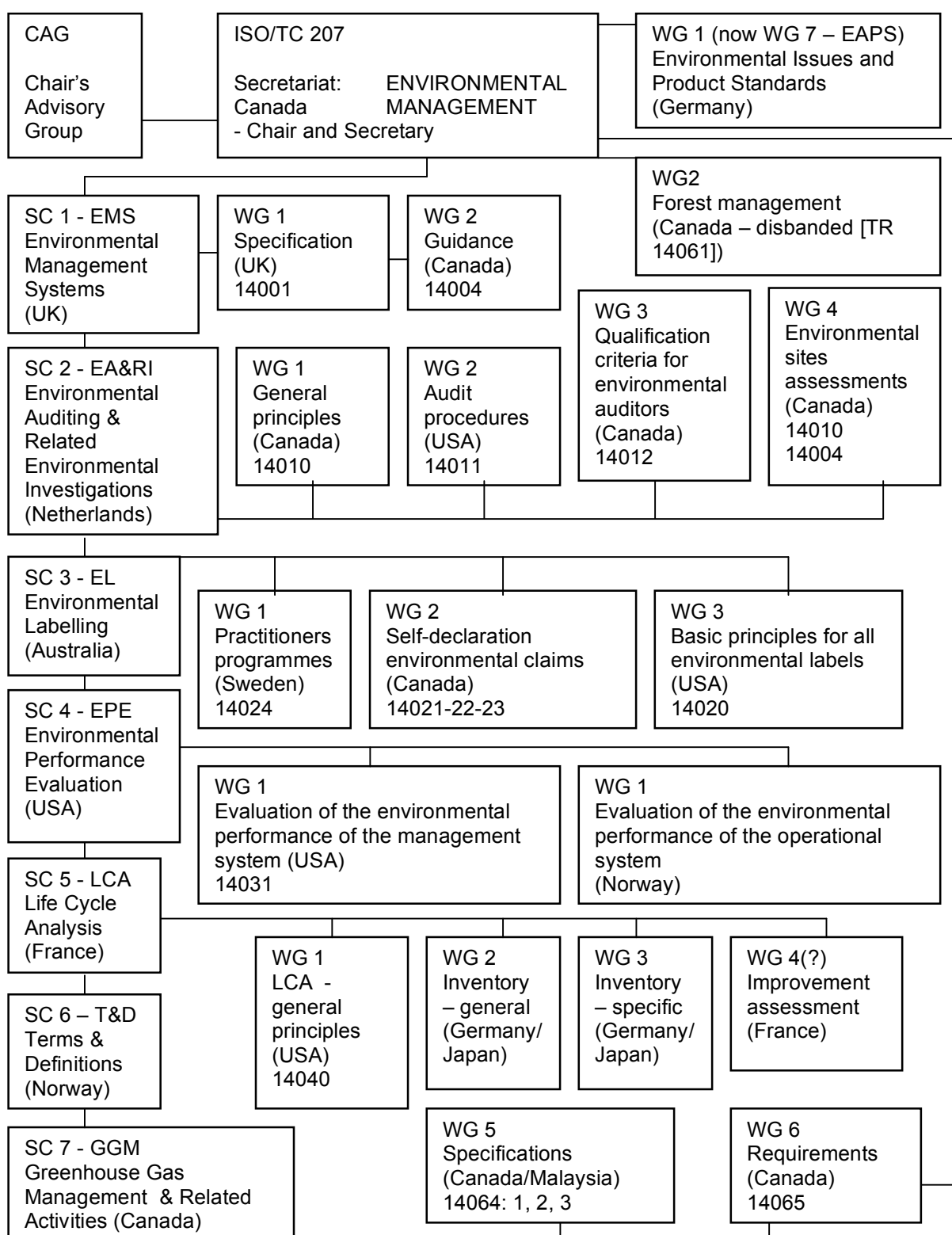
Stage name	Product name	Acronym
Preliminary stage	Preliminary work item (project)	PWI
Proposal stage	New proposal for a work item	NP
Preparatory stage	Working draft(s)	WD
Committee stage	Committee draft(s)	CD
Enquiry stage	Draft International Standard	DIS
Approval stage	Final draft International Standard	FDIS
Publication stage	International Standard	IS

Source: ISO, 2005, p. 11.

TC 207

Located in Canada, TC 207 is one of the largest technical committees within ISO, producing (and continuing to oversee) the ISO 14000 Series (see Figure 5.2 below).¹⁵¹ SC1 is responsible for ISO 14001 (environmental management systems - specification with guidance for use) and 14004, (general guidelines on principles, systems and supporting techniques).¹⁵²

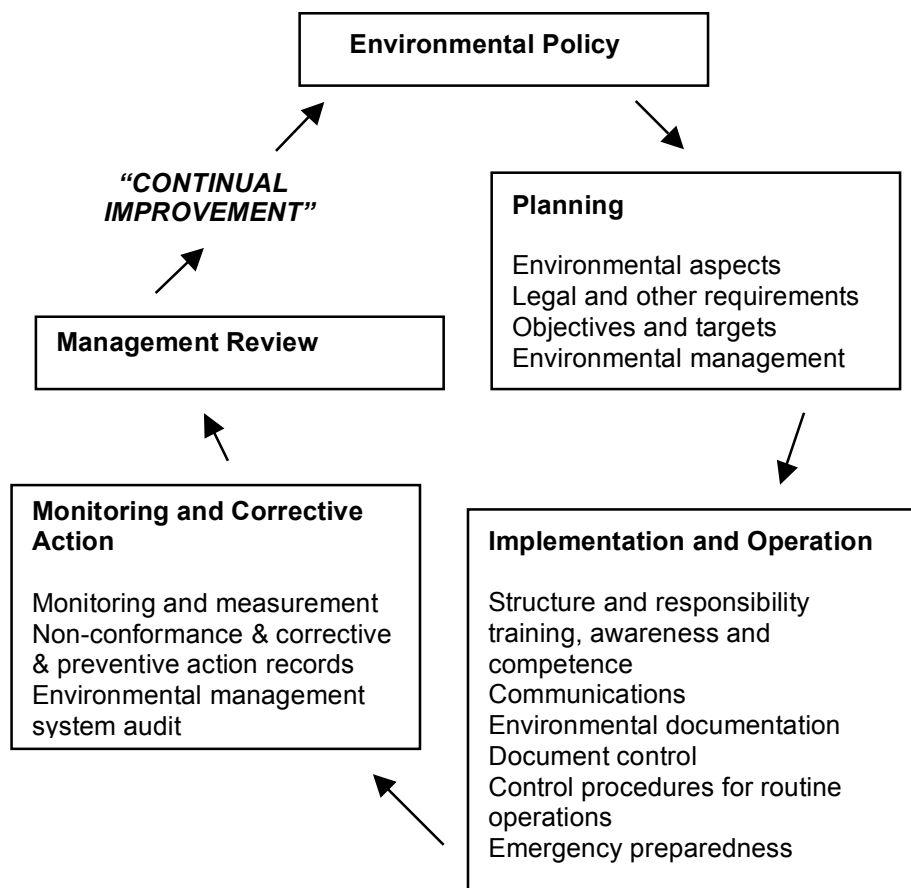
Figure 5.2 Structure of TC 207



Source: Hauselmann, 1997, p. 7; ISO, 2008 (adapted).¹⁵³

ISO 14001 is the only standard designed within the Series for registration (another term for certification) by a third party.¹⁵⁴ Alternatively, a company can use the specification for internal guidance only, or for self-declaration purposes, and may choose not to seek third party verification.¹⁵⁵ These two standards were first released in 1996.¹⁵⁶ Neither internal nor external audits require the evaluation of a company's environmental performance.¹⁵⁷ ISO 14001 has undergone revision and now exists in a version published in 2004 (ISO 14001:2004).¹⁵⁸

Figure 5.3 The Environmental Management System model for ISO 14001



Source: Edwards et al, p. 15; Elliott, 2000, p. 15.¹⁵⁹

ISO 14001 has five main sets of requirements: the adoption of an environmental policy supported by top management (commitment and policy); the formulation of a plan to fulfil the policy (planning); allocation of responsibilities and

associated training and awareness raising (implementation); development of a system for checking, correcting, monitoring, reporting and preventing environmental impacts (measurement and evaluation); and the establishment of management review and associated continuous improvement processes (review and improvement - see Figure 5.3 above).¹⁶⁰ TC 207's subcommittees and associated working groups have been responsible for managing the generation and revision of a number of standards under the 14000 Series.¹⁶¹

Institutional Typology

ISO as an institution has been portrayed as constituting an “indirect monopolist global governance arrangement.”¹⁶² Under such an arrangement, government influence is present, but it is not direct, nor all-controlling. However, although the system is administered by independent agencies, the monopolist nature of the arrangement does mean that one single private actor supplies governance.¹⁶³

Such an arrangement impacts on the structures and processes of governance in particular ways. The group of active participants in ISO is relatively homogeneous and generally private in nature, although the role of government is still quite strong.¹⁶⁴ ISO is relatively inclusive of these types of organisation although most of its members continue to have a western, transnational corporate background. To this should be added the observation that inclusiveness within the processes of decision making is rather minimal.¹⁶⁵ Some commentators also refer to the development of ISO 14001 as occurring either in the shadow of public law or, more generally, in the shadow of hierarchy, referring to the role of government in certification.¹⁶⁶

In view of these observations, and those of this study, ISO has been identified as a governance system that sits closer to the non-state, rather than the state-

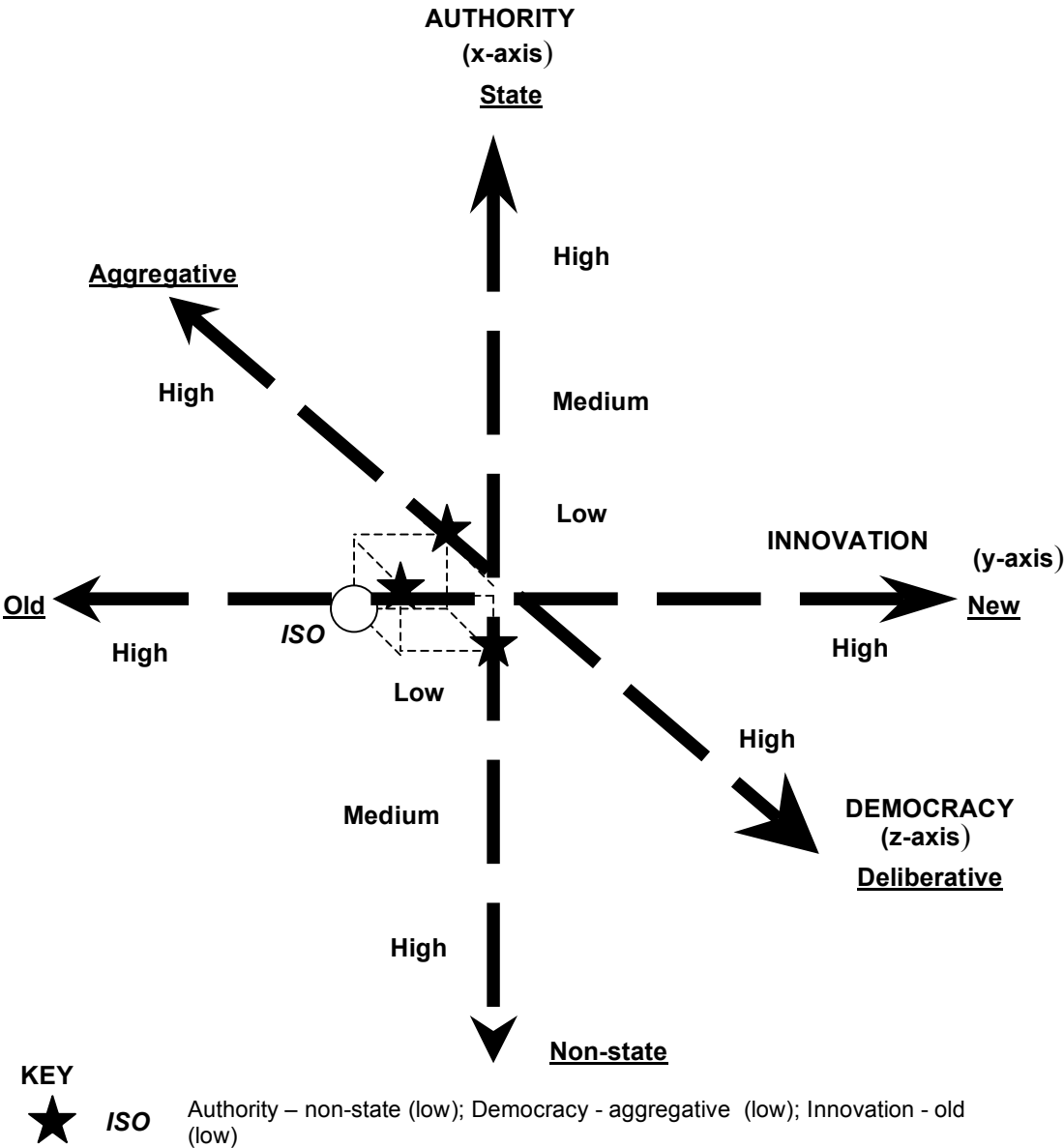
centric end of the sovereignty continuum, but only slightly. States nevertheless have a degree of interest in and influence over ISO's standards given the often-close linkages of the latter to state regulations and international trade rules. Some member bodies may be state institutions, or if private, receive funding from the state, and it is at the country, not organisational level, whence ISO derives much of its authority. The strong role of industry inclines the institution towards the non-state end of the axis as well, but this is itself mitigated by the subservient role played by other non-state interests, such as NGOs, and the close alignment of business and quasi-state interests such as national standards bodies. Consequently, it is located on the non-state end of the authority axis, but with a rating of **low**.

Although ISO is located towards the deliberative end of the democracy axis, it is still effectively an institution that functions along aggregative democratic lines. There is undeniably an emphasis placed by the institution on the use of consensus in its public literature, and the "qualified majority" voting associated with standards approval, which requires 75% agreement, and this should imply a high degree of deliberation within its decision making bodies.¹⁶⁷ This is offset however by the use of the aggregative democratic method of voting by simple majority throughout most other parts of the institution, and the discretion given to technical committees as to whether they use consensus or majority voting. Added to this is the inconsistent use of voting and consensus within TC 207, the main sub-institution studied here, in its committees and working groups. ISO consequently sits along the aggregative end of the democracy axis, but acknowledging the use of consensus in some associated entities, it is rated **low**.

Given its age as an institution and its monopolist, rather than shared, arrangements, it is difficult to view it as representing a particularly 'new' model

of governance. Some commentators, however, do see the institution as being an example of ‘mixed’ mode governance, referring to its private-public nature.¹⁶⁸

Figure 5.4 Institutional classification of ISO



However, to this should be added the caveat that the organisation’s membership is fairly exclusively defined -- and confined -- by traditional territorial boundaries. This membership effectively interacts in a way not unlike Member States of the UN, using a one-country-one-vote method of reaching agreement. The placement of industrial interests in positions of power within its institutional structure, and

the commensurate lack of a role for NGOs, also leads to the conclusion that ISO is not especially innovative in its institutional design. ISO is to be seen as having a relatively ‘old’ governance model, although recent developments, most notably the efforts to increase NGO representation on a formal level (if not yet fully realised), indicates some willingness to change. Consequently it has been located on the ‘old’ end of the innovation continuum, but is rated **low** (see Figure 5.4 above).

Critical Analysis

Interest Representation

Inclusiveness

Under ISO rules member bodies must take into account the full range of interests relevant to the development of a given standard. This is expected to entail the arrangement of national consultations and the preparation of national positions representing a balance of interests.¹⁶⁹ Some national rules provide for consultation and participation of NGOs. Other member bodies do not formally exclude NGOs, but neither are they obligated to consult with them.¹⁷⁰ The national member bodies within the development of ISO 14001, for example, have been criticised for their low NGO participation rates.¹⁷¹ The conversely high presence of industry groups is deemed as inappropriate by some commentators.¹⁷² The historical extent to which NGO interests have been included in TC 207 has been identified as a pressing problem. Representation in plenary meetings between 1997 and 2003 remained relatively unchanged, and low, at only 3% of delegates, in comparison to the top four attendees: industry 32%, standards organisations 21%, consultants 18% and governments 10%.¹⁷³

Developing countries' participation in ISO is also a historical problem. The need to enhance the representation of developing countries' interests within ISO has been officially recognised since 1961, when the organisation created a policy committee, DEVCO, to look into the needs of developing countries in relation to standard setting and related activities. In 2002 ISO created the Developing Countries Task Force (DCTF) to identify specific responses to the issue of under-representation. DCTF has produced a programme for action, which specifically refers to the need to establish procedures whereby the secretariat can allocate and appoint committee chairs and co-chairs to developing countries. The effect of these programmes has been questioned.¹⁷⁴ ISO literature presents the case that it has responded to the need to increase participation through the creation of a five-year plan for developing countries. The plan has five key objectives: to increase awareness; develop capacity; increase national and regional cooperation; develop economic communication and expertise in IT tools; and increase participation in ISO's governance and technical work.¹⁷⁵ ISO has also developed the concept of "twinning", whereby a member from a developing country may seek assistance from a developed country member to share committee secretariat positions, or enhance expert-level input.¹⁷⁶

ISO 14001 in particular has been described by scholars as "a self-regulatory international environmental management standard created by and for industry, but without the full participation of weaker stakeholders in the international community."¹⁷⁷ There is some evidence that the participation gap between developed and developing countries has affected perceptions regarding ISO 14001, particularly at the delegate level.¹⁷⁸ Parties who became involved in the programme well after it started felt that their absence had reduced the overall

quality of the scheme itself.¹⁷⁹ Absence from the early stages made delegates resentful and they felt that the regime had been devised mostly in the absence of their input, thus weakening its legitimacy and affecting future interactions between delegates.¹⁸⁰ This exclusion was not an overtly deliberate attempt to disenfranchise any groups, but mostly due to a lack of financial and technical capacity, but was experienced mostly by developing country delegates. There was however no effort to reach out to these groups, although with hindsight it was recognised that their earlier presence would have made later text renegotiations unnecessary.¹⁸¹ Given the inefficiencies of redrafting, it has been concluded that both developed and developing countries “would have benefited from greater stakeholder participation in regime formation.”¹⁸²

This raises the issue as to whether the manner in which private authority has been exercised within the TC 207 process has impacted on the legitimacy and efficacy of ISO EMS certification as an international regime.¹⁸³ Some further corroborative evidence is found in a survey of 55 certified companies in the US conducted in 1998, which showed that 67% per cent of ISO 14001 certified companies had not involved community stakeholders in developing or implementing their EMS.¹⁸⁴

Interviews

The views provided by interviewees regarding ISO’s inclusiveness were mixed. Business interests appeared generally happy with their involvement, partly because of their direct experience of implementing ISO 14001, and on account of their role in shaping the course of the Series’ application nationally, but did not comment in any great depth.¹⁸⁵ NGOs believed that the extent of their sector’s involvement within ISO was marginal, which was the reason for their focus on

trying to change the governance of TC 207 and across ISO more generally.¹⁸⁶ The situation on the international level was counterbalanced by anecdotal observations at the national level, with one NGO commenting that they were included in their country delegation, and on that level their inclusion and input was never questioned.¹⁸⁷

Other interviewees, notably those from the third group, defended ISO's degree of inclusiveness. On a national level it was claimed that there were examples of countries, which had a very open systems of participation, although in others, such as New Zealand, participation was less developed.¹⁸⁸ It was stressed that ISO was changing, and was beginning to see the need for better engagement with all interests.¹⁸⁹ However, different countries and processes were at different stages of development, referred to by one interviewee as: "blissful ignorance", where interest representation was not a priority; "open door policy", where interests who wanted participate were not excluded, but had to initiate contact themselves; and "proactive stakeholder engagement", where interests were sought out, and the reasons for their non-participation analysed and addressed. TC 207 was portrayed as existing somewhere between stages two and three; it had tried to engage with NGOs more effectively and had created processes to do so, but it was also acknowledged that there was resistance from some committee and sub-committee chairs. ISO generally was presented as being at the open door stage, rather than proactively engaging all interests, since its membership rules restricted full participation.¹⁹⁰ What was seen as more important was that at present NGOs could be included "one way or another", via mirror committees, delegations, or as liaison organisations.¹⁹¹

Some acknowledgement was given to efforts being made to include developing country stakeholders more effectively through the ‘twinning’ process of having co-chairs from developing countries, and by giving them more responsibilities within the ISO system. Countries, which did not attend international meetings, could still discuss and vote at a national level on the documents generated, but it was also acknowledged that subcommittees tended to represent more important countries.¹⁹² Inside small and developing countries, national positions could be determined by the position of whoever was at a given meeting on a particular day.¹⁹³

There was a considerable degree of uncertainty regarding the future of interest representation within the organisation. This uncertainty related to the future role for non-state interests of all complexions, such as multinational corporations and trans-national NGOs, who had restricted rights. Since ISO’s structure was driven by the philosophy that true stakeholder involvement occurred at the national level, member bodies were already expected to represent the views of interested parties domestically.¹⁹⁴ This could be a problem if insufficient interests were represented, because it led to elites dominating the national position.¹⁹⁵ Nevertheless, there were examples of civil society and national NGO agendas being at the core of documents written by ISO.¹⁹⁶ One NGO interviewee commented that NGO inclusion in TC 207 depended on the subject matter: the less “business driven”, the greater the chance of involvement and influence.¹⁹⁷

This variation in the way in which people were included in ISO’s structures appeared to influence stakeholder perceptions regarding the value of participation in a given process. A national institutional stakeholder might invest a considerable amount of time and money into a position within an international committee,

because it gave them a degree of inside involvement in activities that could be used to their economic advantage. By gaining access to information that could be used for seminars, training courses and publications a national body could generate funds for general business operations. NGOs might choose to be involved simply to change the governance arrangements in order to gain the same rights as other stakeholders in influencing standards setting processes. This was a tactical move to gain a “veto position” by NGOs and strategic non-attendance was possibly also being emulated by business.¹⁹⁸

Evaluation

ISO is characterised by a considerable amount of variation in the extent to which different interests are included in its representative structures. Members, who essentially represent national interests, are themselves divided into three different categories, only one of which is entitled to vote in the General Assembly and in the technical committees and sub-committees associated with standards development at the international level. Civil society interests, particularly NGOs, are even less included. The degree to which different interests are represented at the national level also varies country by country. This affects the country positions adopted and presented at the international level as articulating the national consensus. In terms of TC 207, there are only a handful of NGO groups that can really be characterised as involved. Another civil society inclusiveness problem arises in relation to consultation associated with company level implementation of ISO 14001.

Some effort has been made to address the issue of interest representation more effectively, but this has been almost glacial in its progress, and has met some resistance. The developments within the area of social responsibility and within

TC 207 have the potential for longer-term positive structural impacts. Although they have yet to be fully realised, plans to revisit the status of liaison members are encouraging. Given these mitigating factors, ISO's inclusiveness is **medium**.

Equality

The make up of ISO member bodies by region and their participation in standards development within ISO's technical committees is uneven (see Table 5.2 below). It is interesting to note however, the degree to which government, industry and NGO participation has changed over a ten-year period within ISO as a result of increased civil society engagement (see Table 5.3 below).

Table 5.2 ISO member bodies and technical committee participation by ISO geographical region

Region	ISO Member Bodies	Average TC participation	TC Secretariats (NB: 4% vacant)	TC Chairs (NB:18% vacant)
Western Europe	12%	48%	58%	47%
North America	2%	7%	19%	22%
Asia	25%	22%	10%	8%
Central and Eastern Europe	15%	13%	3%	2%
Africa	30%	4%	3%	2%
Oceania	2%	3%	2%	1%
Central and South America	14%	3%	1%	0%

Source: Morikawa and Morrison, pp. 9-13 (as of October 2004)

Commentators also observe that standards organisations and consultants, “who are not the primary users of the standards, but the ones who thrive on standards-related business...have more presence in ISO 14000 standards development than industry, the audience for whom the standards are presumably intended.”¹⁹⁹ One interesting further observation made by both developed and developing country

delegates omitted from the early stages of the Series' development was that the needs of small and medium enterprises (SMEs) had been overlooked.²⁰⁰ Given that the later revisions of the standard were necessary to make it more applicable to SMEs, a conclusion might be drawn that large companies originally shaped the standard to their own ends.²⁰¹

Table 5.3 Comparison of sector representation (industry, government, NGOs) within two ISO standard setting bodies relevant to environmental and social policy

Forum	Sector	Composition
TC 224 (water quality) registered delegates (October 2004)		
	Industry	26%
	Government	18%
	NGOs	5%
Working Group on Social Responsibility participants (March 2007)		
	Industry	25%
	Government	19%
	NGOs	17%

Sources: Morikawa and Morisson, 2004 pp. 8-22; Slob and Oonk, 2007, p. 2.

Interviews

Interviewees from the third group of informants recognised that certain interests had the potential to dominate under existing arrangements. Draft standards, for example, were developed in working groups that met all over the world and whose membership was much smaller than at national levels.²⁰² It was also acknowledged that there was no specific guidance from the Central Secretariat to its ISO member bodies on how participation should be made effective.²⁰³ This was despite the fact that each country had a responsibility, according to the ISO Statutes, to have balanced stakeholder consultation in their country.²⁰⁴ At an international level ISO had accommodated non-state interests as a result of its move into social-environmental standards setting. This had put pressure on its current country-representative structure, and there was a level of resistance to

changing the existing arrangements. There was a fear amongst national member bodies that introducing new groups into the decision making processes could upset the existing balance between nation-states and that the system could collapse if the one-country-one-vote rule were abandoned.²⁰⁵ The existing governance of ISO via member bodies that were essentially state-oriented had left NGOs feeling that they did not have a fair and effective position. However, discussions about giving NGOs the same voting rights as ISO members still had a long way to go before such a proposition was accepted.²⁰⁶

All three groups of interviewees acknowledged the role played by NGOs in forcing ISO to address the imbalance in interest representation, and attributed this largely to the efforts of the various groups established in TC 207, which had had a flow on to its social responsibility initiatives.²⁰⁷ The possibility of direct stakeholder influence separate from membership-driven governance had also affected the current re-evaluation of the procedures concerning the rights and duties of liaison organisations.²⁰⁸ One NGO interviewee commented that comprehensive steps were needed. Some progress could be seen in the social responsibility initiative but overall business interests were still in the majority.²⁰⁹

NGOs noted that there had been a degree of institutional resistance, particularly within TC 207, where some interests had dismissed the social responsibility initiative as an exceptional issue. The observation was made in this context that it was harder to change an existing structure such as TC 207 than create a new one, where it was relatively easy to institute new procedures.²¹⁰ One interviewee from group three agreed that the NGO and social responsibility initiatives had both contributed to the opposition of some country delegations in TC 207.²¹¹ Other interviewees confirmed that NGOs faced problems being heard

even with the creation of these new processes.²¹² Some national standards bodies within TC 207 had voted against a number of NGO-related procedural recommendations.²¹³

NGOs also believed that institutional resistance to change was related to the fact that business enjoyed close relations with national standards bodies, both of whom thought that their influence - and the business oriented emphasis of ISO - would suffer if new players were brought into the equation.²¹⁴ One NGO, commenting on the lack of equality in terms of NGO input into standards development, argued that although ISO committees had access to the expertise of NGOs, there was no legal obligation for them to seek it, and in the cases where they did, they could dismiss it should they so choose.²¹⁵ Another commented that despite ISO providing guidance on there being balanced interest representation in national delegations, this was not the case, and their group had decided it was better simply not to attend, rather than provide their national delegation with what they referred to as “alibi participants”.²¹⁶ The need for NGOs to create their own forum outside TC 207 to advocate for change was portrayed as arising from a need to defend minority public sector interests in the face of industry domination, be it manufacturing-, standards- or certification-oriented. This external pressure, and the information on representation it presented to TC 207, it was argued, was the main reason why TC 207 had responded.²¹⁷

General concern was raised regarding issues of equality in TC 207, particularly the increasing professional and technocratic dominance in TC 207, referring to business interests (including certifiers and consultants) government bureaucrats, and standards bodies.²¹⁸ This observation was reflected across a number of TC 207’s subcommittees, including SC1, SC2 and SC3.²¹⁹ SC5 was noted as an

exception to this general rule.²²⁰ Some acknowledgement was given to attempts to increase developing country participation (particularly in relation to SC1).²²¹ This was disputed by one interviewee, who saw the lack of southern and developing country participation -- across all ISO standards, but especially in the development of the 14000 Series as a “huge deficit.”²²² This lack of balance is presented as an institutional weakness attributable to outdated and consequently inefficient arrangements, which over-emphasise business interests.²²³ A further interesting observation was made that it was in fact a shift of governmental employees into the private domain that had led to a numerical bias of consultants in particular.²²⁴

Business interests did not comment to the same degree on the issue of equality within ISO. One noted that big business had much more to gain from certification under 14001 than small to medium enterprises, which might explain their lack of involvement in the system.²²⁵ Another felt that the current structure of ISO had the correct balance, and should not be changed.²²⁶

Evaluation

Business, standards bodies and certifiers in combination have a much greater degree of influence than all those interests that make up civil society. They are well represented within member bodies domestically and they are also present on national delegations, whilst the number of NGOs is considerably lower, and in a minority. Only members may chair technical sub-committees, and here there is a further problem within ISO’s membership associated with western European and North American member domination.

ISO’s current participatory structures by their very nature favour certain stakeholders over others. The President of the ISO Council is expected to be a

leading business or standards figure, and the structure of Council itself follows a business model. Economic interests sit within ISO's executive structures. International NGO organisations, the main civil society protagonists, cannot occupy many of the positions of power that business and standards bodies can, since they have no membership rights. NGOs can be on national delegations, but they are in a minority. Equality in ISO is **low**.

Resources

ISO's national members pay subscription fees, in proportion to a country's trade figures and gross national income. The fees are used by ISO to meet the operational costs of running the organisation's Central Secretariat.²²⁷ As of 2005, the Central Secretariat had a budget of about 40 million Swiss francs per annum (approximately USD \$34 million in 2008).²²⁸ Membership fees generate approximately two thirds of income, while commercial revenue, from the sale of standards, copyright royalties, and so forth, provides the rest.²²⁹ The other costs of the system are borne by member organisations through their active management of and participation in standard setting.²³⁰ Participants in ISO's own executive organs, such as the Council, are expected to cover their own travel and subsistence costs.²³¹

Some effort has been made in ensuring developing countries are resourced to participate in ISO activities. Every three years, DEVCO carries out programmes for developing countries (DEVPRO), aimed at increasing informational capacity through training and the publication of training manuals, and providing travel assistance to technical meetings of ISO.²³²

Interviews

The costs associated with participation in ISO were a major preoccupation across all groups of interviewee.²³³ In the international standards setting arena it was acknowledged that participants attended at their own expense, and they did not attend if they were unable to do so, with some qualifications.²³⁴ The ISO Central Secretariat spent approximately \$2 million a year sponsoring developing country participation and training in standards development. For example, ISO had funded a representative from Ghana to TC 207. Since developing countries were generally only able to send one person, usually from the national standards body itself, the participant's value was limited, as they had to cover a whole range of different topics.²³⁵ Mention was made of one other fund established by ISO to assist consumer community groups to help defray their costs to participate.²³⁶ The Dutch government also provided funds for developing country participation.²³⁷ Canada sponsored and paid for NGO and civil society delegates to represent the country in international standards.²³⁸

For those groups such as liaison organisations, who did not represent a country position, it was a matter of working out their own way of getting to meetings.²³⁹ Travel and accommodation costs for such groups to participate in ISO meetings were described as “extremely high”, because meetings occurred all over the world, often at prestigious locations. Such costs did not include the use of experts, which constituted further expense. NGOs contended that costs associated with international meetings were too much even for industry to pay.²⁴⁰

The manner in which ISO bodies funded themselves also varied. For standards organisations, the need for income arose from the necessity of having to survive economically if they were to do the tasks they were assigned as members of

ISO.²⁴¹ For them, funding came from a range of sources including industry and government, and from the fees and royalties derived from the sale of standards.²⁴² Over half of ISO's national standards bodies were government-funded departments; the Department of Standards Malaysia was one such example. There were a lesser number of standards associations, for example the American National Standards Institute, which were funded by subscriptions from industry, NGOs and social interests. Since each country had a different way of funding its national standards body there were different pressure points that influenced the basis upon which each country's interests were represented on the international level.²⁴³

How stakeholders were resourced to participate in standards development nationally varied greatly across countries.²⁴⁴ Essentially, member bodies were expected to create and fund processes that allowed all interests to be involved and to influence the national position. But in many countries this was not the case. According to one institutional interviewee, this was usually due to a lack of resources rather than some political directive to close people out, but not always.²⁴⁵ One NGO observed that it was easy for any institution to open wide its doors and have environmental interests participate, but the sector's basic inability to send sufficient participants would always keep it in a minority.²⁴⁶

One interviewee from group three observed that the NGO community, like developing countries, did not have sufficient capacity to fund its own participation in related processes.²⁴⁷ One NGO subject expanded upon this analysis, and commented that most of the power in ISO resided at the national level, but it was here that NGOs lacked the economic capacity to participate. On the other hand, international NGOs had funds, and could bring technical expertise to bear, but

were only allowed to participate actively at the working group level. Higher-level committees could simply overturn any decisions made at that level. This situation effectively meant that NGOs were excluded at the national level through lack of funds, and internationally through lack of access.²⁴⁸ Institutionally, to make matters worse, ISO itself was accused of being wasteful of the resources it had at its disposal.²⁴⁹

Evaluation

Access to the resources necessary for meaningful participation is uneven amongst ISO's participants. On the membership level developing countries struggle to participate effectively in ISO's standards setting processes on account of insufficient funds. However, ISO as an institution has put some mechanisms in place to assist developing country members, particularly through DEVCO and the "twinning" concept. For non-member groups, such as liaison organisations, there are generally no funds available on an international level, although there are exceptions. The high costs associated with international standards development challenges even the ability of some businesses to participate, particularly SMEs.

There are also problems associated with access to resources on a national level. The fact that some of ISO's member bodies finance standards development on a user pays basis may lead to a participation gap of under-resourced groups such as NGOs, which is created by an inability to cover participation costs. The need for standards bodies to raise funds through the sale of standards or via sponsorship from government or industry, and the financing of NGO participation by industry and government has the potential to lead to conflicts of interest. Given these mixed results, the provision of resources to participate is **medium**.

Organisational Responsibility

Accountability

In many ways, the Technical Management Board, rather than the General Assembly, Council or Board, has the highest degree of responsibility for the governance of ISO as it appoints chairs, monitors work progress and oversees the implementation of the organisation's rules associated with the development of standards, known as the *Directives*.²⁵⁰ Under ISO rules member bodies are expected to include a wide range stakeholders in the development of standards. Despite these expectations, there are no specific directions as to how this should be done.²⁵¹ In the absence of such details, national member bodies are accountable only to themselves, operating under their own rules and procedures, and determining the manner in which interests are represented differs across countries.²⁵²

TC 207 has in particular has acknowledged that the move away from technical standards has necessitated “processes leading to standards that are used in public policy are held to higher levels of accountability” than those that lead to “non-policy related technical standards.”²⁵³ Nevertheless an accountability problem regarding the exact status and nature of delegates participating in the development of the ISO 14000 Series has been identified, which has implications beyond TC 207. Country-member delegates (who may actively participate in standards development) are referred to by their country of origin not their organisational affiliation. For example, a delegate from France working for Thompson Electronics is not listed according to their sector, but simply as a French delegate.²⁵⁴ This affects what has been identified as a fundamental principle of public or private governance, namely the ability to hold an individual accountable

for their action through a clear allocation of responsibilities and a clearly defined role.²⁵⁵ This also affects the institution's transparency. See below.

Interviews

Comments regarding the accountability of ISO were confined largely to NGOs and the third group of interviewees. NGOs expressed concerns about the roles played by both consultants and certifiers in the ISO system. In the case of consultants, it was not clear to whom they were ultimately responsible. This would not be particularly important if they were solely engaged for their technical expertise, but they tended to be hired because they knew how to manipulate the system for the benefit of their clients.²⁵⁶ Another NGO stakeholder echoed this view, but referred to certifiers more stridently as the “pushers in the system.”²⁵⁷

Concerns about accountability were also raised in the third group of interviewees. Certifiers were specifically identified as representing a possible accountability problem in the ISO system. Like the quality-related ISO 9000 Series an industry had grown up around the ISO 14000 Series. It was claimed that certifiers had “flogged it to death” on the basis that they would certify companies who could then differentiate -- and promote themselves -- themselves in the market place as a ‘green’ company.²⁵⁸ Another possible accountability problem regarding the non-state organisations participating in ISO was also raised. One interviewee did not want ISO to move away from the current system, legitimated as it was by association with the nation-state, and rejected the idea of moving to a system of representation based around international organisations. They questioned the extent to which groups such as WWF, the International Chamber of Commerce (ICC), the International Organisation of Employers (IOE) and the

International Labour Organisation (ILO) were truly accountable to their own memberships.²⁵⁹

ISO itself was seen to be relatively accountable by one NGO interviewee. The argument was presented that standards bodies should be seen as the people most interested in ensuring the system was objective, democratic and transparent. While the system might not be particularly environmentally minded it did have an interest in proper process.²⁶⁰

Evaluation

As an institution, ISO displays a fairly high degree of accountability towards its franchised membership, and has a range of mechanisms whereby members can participate in the governance of the institution. However, because correspondent and subscriber members have lesser rights than full members, their ability to hold the institution to account is more restricted, since they cannot pass resolutions or vote. The extent to which the organisation is answerable to civil society stakeholders is similarly reduced. The situation for liaison organisations is unsatisfactory, since not only can they not hold ISO accountable at the ballot box, they also appear to have very few avenues of appeal. The whole process of seeking to increase the effectiveness of NGO participation in TC 207 should be seen as an attempt by public interest groups to both secure more of a voice, but also to render ISO more accountable to the general public.

It is true that the amount of accountability that such stakeholders as NGOs demonstrate towards their own membership can be questioned, but the same can be said of private business interests, who may be answerable only to their shareholders. The variation in national member bodies' institutional arrangements also affects their accountability. Private bodies may consider paying clients more

important than community interests, whilst state-managed institutions may deem the mandate of an election as a sufficient level of accountability. A degree of concern was expressed by a number of stakeholders on the role played by certifiers. This relates to their significance in overseeing the implementation of ISO's standards and the economic nature of their relationship with companies seeking certification. An otherwise low rating is mitigated by the initiatives within the various TC 207 task forces and groups and within the institution's social responsibility initiatives to render ISO more accountable to non-members, making it **medium**.

Transparency

ISO aligns itself to the WTO and that organisation's requirement for transparency and openness to be observed by international standardisation bodies.²⁶¹ According to ISO its international standards embody "the essential principles of global openness and transparency...safeguarded through its development in an ISO Technical Committee...representative of all parties, supported by a public comment phase."²⁶² The literature on the other hand is critical of ISO, and identifies a lack of transparency in public reporting in two regards. Internally, the organisation is criticised for the very limited nature of publicly available information regarding the scope of representation in standards development. Because there is no systematic approach to monitoring participation it is not possible to determine whether input from a full range of interests has been achieved.²⁶³ This lack of information affects the degree to which ISO can be held accountable for participatory shortcomings, should there be any. A second, externally relevant issue of transparency concerns the previously identified problem of environmental performance. ISO certified businesses are not obliged

to target or prioritise specific environmental impacts, but only to “consider” those “environmental aspects” they deem as “significant” within their own policy. Further, a company is not required, as with EMAS, to provide a validated statement describing the company’s environmental impacts.²⁶⁴ This absence of public disclosure in ISO 14001 is seen as creating a credibility gap since public interest groups who may wish to determine the extent to which a certified organisation impacts on the environment have no access to information.²⁶⁵ This observation would appear to be reinforced by the finding in a US study that 67% of ISO 14001 certified companies did not publish an annual environmental report of their activities.²⁶⁶

It should be noted however that ISO 14001 was revised in 2004 with the intention of providing clarification on some of the matters that were unclear in the first iteration.²⁶⁷ ISO 14001:2004 places a greater emphasis on demonstrating continual improvement, and partly responds to concerns about environmental reporting by requiring organisational transparency regarding what the system actually does. It has also partly addressed further criticisms by placing an emphasis on the need for a company to identify its significant environmental aspects. An EMS is also required to be legally compliant. A further transparency initiative requires a company to provide documentary evidence of its EMS.²⁶⁸

Interviews

NGOs were the only group of interviewees to comment on the transparency of the ISO system. One commented that ISO’s standards setting procedures compared poorly with other standards bodies. Pointing to ISO 14031 (environmental performance evaluation) specifically, they argued that it was not developed in an open process at all. In ISO documents were made available to people in the

various committees, but during the public enquiry phase the documents had to be purchased by other interested parties if they wanted to make a comment; in many cases the public did not even know that the documents were available. They contrasted this with the Global Reporting Initiative, where all discursive transactions were undertaken through the Internet, and everybody was afforded the opportunity to comment upon them. Within the GRI system there were clear instructions on how to develop indicators and how to communicate them to the public. They stated that everyone used the GRI guidelines, rather than the ISO standard, which they felt said “everything about the inherent quality of the document”.²⁶⁹

Another NGO interviewee raised the problem associated with country of origin as a means of identifying particular interests, and provided a telling example of lack of transparency. In their dealings with ISO 14001, they had finally uncovered four representatives from Exxon within their particular committee, who sat on a number of country delegations, but who did not disclose their corporate affiliations.²⁷⁰ Exxon was identified by another informant as one of the key large industrial stakeholders responsible for influencing the initial creation of TC 207.²⁷¹

Evaluation

It is difficult to consider ISO on either a national or international level as being particularly transparent. The development of standards is largely an “insider” process, and documents are generally not available to the public until the enquiry phase. ISO 14031 is to be negatively contrasted with the Global Reporting Initiative in this regard, for example. This is partly offset by ISO’s efforts in the area of social responsibility, where some materials are published online. However,

given the number of standards being developed by ISO, and the decentralised nature of their development, the accessibility of information is questionable.

Another problem relates to whose interests given stakeholders are representing when they participate. The constituencies of the various civil society groups are quite obvious, but this is much less so in the case of business interests participating in national delegations or at the technical committee level and below. The example of Exxon serves as a case in point for the ISO 14000 Series. Consequently, the transparency of ISO is **low**.

Decision Making

Democracy

It is important to understand the difference in status within ISO between members and other stakeholders, as this results effectively in two classes of participant in ISO: member bodies with voting rights; and those without voting rights, which participate in ISO's processes more generally.²⁷² An O-member, for example, in the opinion of one commentator "merely receives information and watches from the sidelines".²⁷³ Liaison organisations may participate in discussions and may receive all information, but they are not entitled to vote in the balloting that is associated with advancing standards through ISO's drafting stages.²⁷⁴

TC 207 has recognised that external and internal stakeholders are likely to have differing perceptions regarding the effectiveness of the 14000 Series, but has stated that its concerns lie with its internal stakeholders. In this context effectiveness is understood in a democratic context as overcoming "obstacles that reduce a stakeholder's opportunity to influence the decision making process relative to other stakeholders."²⁷⁵

Interviews

Judging by the extent of criticism, ISO's democratic processes appear to have impacted most negatively upon NGO interests, one of whom commented that NGOs did not have any rights within ISO, merely the right to participate.²⁷⁶ Within TC 207 the exercise of choice was usually by majority vote and minority interests were unable to outvote industrial interests.²⁷⁷ One interviewee associated with the development of ISO 14001 could recall only one instance when their viewpoint carried the day. This was only because favourable interests were in the room at the moment of voting to achieve the desired outcome. They considered this the only positive experience they had ever had.²⁷⁸

Business interests were generally positive. One viewed the current ISO rules of procedure as sufficient. If the rules were changed it would give NGOs undue power, undermining democracy, as it was traditionally understood.²⁷⁹ Another interpreted ISO as having an electoral system dependent on the nation-state. Only technical people from the various ISO countries could vote, and as they were linked to government, they effectively represented the state.²⁸⁰

One interviewee from the third group of subjects showed some sympathy for the NGO viewpoint. ISO's reluctance to change was indeed creating problems for the civil society interests that had appeared over the past twenty years. These interests operated at an international level and had a supranational focus, giving them a global understanding and focus on particular issues, but they were not able to bring their experience to the fore because they could not vote.²⁸¹

Evaluation

For those members of ISO who can vote it is fair to say that decision making is highly democratic. Standards are developed through a multistage process, and

reflected at the national level through mirror committees. However, voting is a small part of the deliberative processes associated with the creation and publication of standards within ISO. Looking at TC 207 in particular, which has been fairly closely investigated in this study, a number of mixed democratic signals emerge. Firstly, there is the fundamental question, partly addressed earlier in this section, whether a process that is limited in the inclusiveness and equality of its participatory structures can be considered democratic. Secondly, there appears to be a considerable degree of latitude exercised by those in positions of authority in the various subcommittees and working groups over which democratic procedures should occur. There are several examples where ISO's procedures have not been followed as in SC3 and the working group on forestry. The tension here is between the high levels of democracy in the balloting standards, and for voting members, versus the dubious nature of the exercise of democracy within some of the subcommittees and working groups in TC 207. At best, the democracy of decision making associated the ISO 14000 Series should be considered **medium**.

Agreement

Resolutions at General Assemblies and Council meetings, as well as the initial determination by member bodies to establish new technical committees, are adopted by a majority vote.²⁸² Technical committees, unless otherwise determined by the Technical Management Board function under “consensus agreement of the member bodies actively participating in the work of the technical committee, either in person or by correspondence.”²⁸³ Despite these expectations, there are no specific directions as to how such national consensus should be attained.²⁸⁴ Confusingly, given their status, liaison organisations are also expected to agree to

decisions made. Although they cannot vote, technical committees and subcommittees are expected to seek the “full, and if possible, formal backing” of category A organisations for each international standard in which the organisation participates.²⁸⁵ “Full and formal backing” is not defined.²⁸⁶

Under ISO rules member bodies are expected to present a national consensus position to the appropriate technical committee.²⁸⁷ The high level of business interest participation in decision making has been challenged since it raises questions regarding the real nature of consensus within national standards bodies.²⁸⁸ The extent to which standards development is driven by consensus -- as opposed to voting -- is unclear, as the procedures during the committee stage of standard drafting indicate. Under its agreement with WTO, ISO must implement principles of ‘good governance’ including consensus.²⁸⁹ The role of consensus is stressed in ISO documentation:

International Standards of the type produced by ISO, based on a double level consensus – between countries and across stakeholders – are, more than ever, in demand.

The political context in which International Standards are developed has evolved drastically, with the expansion and scope of the World Trade organization, the multiplication of free trade agreements, the pressure for better public governance, the concentration of industry in ever more global companies, the growing influence of non-governmental organizations (NGOs) for more equitable and sustainable development and the increasing public demand for the social accountability of economic actors.²⁹⁰

Secretariats are given the power to appoint a committee chair to assist in reaching consensus.²⁹¹ The chair’s role in obtaining consensus seems to be an active one:

The chair has the task of steering the committee towards that consensus and recognising when it has been reached. In general this will mean that the committee agrees that a particular solution is the best possible for the international community at that point in time.²⁹²

It is possible that ISO current procedures on consensus decision making are not well suited to negotiating controversial issues.²⁹³ At present ISO defines consensus as:

General agreement, characterised by the absence of sustained opposition to substantial issues by any important part of the concerned interests and by a process that involves seeking to take into account the views of all parties concerned and to reconcile any conflicting arguments. Note: consensus need not imply unanimity.²⁹⁴

In the development of the 14000 Series this definition of consensus has proved elusive.²⁹⁵ There are several examples when consensus has been replaced by a majority vote and issues affecting the broader strategic direction of environmental standards have been defeated by the narrowest of margins.²⁹⁶ In these instances, there were also inequalities in interest representation before the issues went to vote, and since developing countries' and NGO participation was already weak, there were repercussions on both the content of the drafts agreed, and ultimately the standards themselves.²⁹⁷ Within their working groups, convenors have the right to determine the procedures used and working group rules within TC 207 varied from one person one vote, to one delegation or liaison organisation one vote.²⁹⁸ This led one commentator to note that the very fact that voting systems were employed demonstrated that consensus was not in operation. The closeness of some votes resulted in a situation "far from the 'absence of sustained opposition' required under ISO rules to achieve consensus."²⁹⁹

Interviews

Both business and NGO interviewees were critical of ISO's existing arrangements, particularly the use of consensus within the institution, and the implications for democracy. One interviewee was deeply concerned that inappropriate use -- or misuse -- of consensus in a governance situation could be

akin to a government cheating an election.³⁰⁰ Another interviewee challenged the idea that ISO's current processes for reaching agreement were sufficient. They argued that as an overarching principle national consensus building must be complemented by the input from a range of interests. Every organisation should have the possibility to communicate a given position to ISO's committees in addition to the national consensus position. This was supposed to be embedded in ISO's rules, but they commented, that the procedures encouraged the creation of national positions based on majority voting. All interests needed either full voting rights, or the ability to fundamentally object to positions. ISO needed to make it clear that consensus building within such decision making bodies should also include liaison organisations.³⁰¹ One business interviewee criticised ISO's decision making processes for being overly bureaucratic, whilst not actually delivering particularly effective decision making processes.³⁰²

The third group of interview subjects provided a fairly detailed analysis, and defence, of ISO's processes for reaching agreement. At the General Assembly level, decisions were taken under a UN model based on consensus, but also allowing a country-based single vote. There was no weighted voting, and ISO had deliberately steered away from getting into debates about voting between countries such as the US versus economic communities such as the EU. This was seen as a dangerous route to follow, and one that had consistently dragged ISO back to the status quo.³⁰³

The technical committee level was identified as being vital to the running of ISO at an international level, since it prevented UN-style stalemates.³⁰⁴ The secretary and chair managed the processes of decision making, which were essentially driven at this level by the standards bodies involved. Together they

decided upon a range of issues including the acceptance of new work and final standards.³⁰⁵ TC 207 was described as being driven by resolutions, voted upon by “P” members, and which were “generally” passed on a majority basis, but such resolutions were more related to governance matters. There had been occasions where resolutions had been put to a vote and it was necessary for the committee to go into division to determine the extent of opposition. However, TC 207 was also portrayed as being driven by consensus.³⁰⁶ It tried to follow consensus, but at the end of the day resolutions were accepted “on a majority basis.”³⁰⁷ The same situation was described as occurring within the bodies where the actual standards setting occurred, but to this was added the caveat of the need to ballot members. The confusion between whether the decisions were taken by consensus or by voting was clarified as follows: “the standards setting as they say is by consensus, and there is a definition of consensus, but the practical answer is we go through several rounds of voting.”³⁰⁸ Voting also occurred in the subcommittees as well. One anecdotal example of decision making in SC 3 was described as constituting an example where participants tried “pretty hard to thrash out the issues so we didn’t have to ever get to anything where there was [a] vote.”³⁰⁹ Non-state, liaison status members could not vote in these subcommittees. This arrangement was defended on the basis that they could still influence the process, and a few examples were provided where a concession had been made to ‘green’ groups.³¹⁰ This approach to consensus and voting was further defended as constituting a much better approach to decision making, than WTO’s technical barriers to trade committee on environmental labelling. There, some issues had been discussed for nearly twenty years, but because deliberations continued until no dissenting voice was heard, the only matter resolved had been to adopt ISO’s recommendations.³¹¹

Decision making at the national level was portrayed as a process whereby conflicting parties could voice their opposition to a given decision but abide by the views of the majority. The permitted option of sustained opposition is avoided by seeking a middle ground option agreeable to all parties.³¹² The postal ballot of standards, passed by a two-thirds majority of the whole ISO voting membership or rejected if more than 25% vote no is also explained as a necessary mechanism for broader national membership approval. Sub-committees under technical committees may have no more than six country members participating, so interest representation may not be sufficient to capture the views of all ISO countries, hence the ballot.³¹³ The staged process approach to document development also means that standards effectively work their way through a series of agreements at the mirror-, technical- and sub-committee levels as well as the membership-wide level.³¹⁴ Decision making around standards development varies across countries.³¹⁵

Evaluation

ISO contains a wide array of mechanisms for reaching agreement, from simple majority to qualified majority, and from consensus to compromise. There is some logic behind the variation in methods of agreement. It makes sense that the product of a small subcommittee's decisions should be reflected by a much broader, and higher level of agreement at the international level. So too does the recourse to consensus amongst a wide variety of multi-stakeholders. The idea of initially scoping a process through consensus and moving to voting as discussions increase in complexity has been identified as a useful way of reaching agreement in multi-stakeholder processes.³¹⁶ The problem with ISO's processes for reaching agreement is that external (i.e. non-member) stakeholders are involved in decision

making from the beginning, but their ability to procedurally ‘agree’ to anything at any stage is severely restricted. The exercise of consensus also appears to be more honoured in the breach than the observance. There is also the unresolved confusion as to when and where standards development should be driven by consensus or voting. Lack of clarity regarding how consensus is defined within ISO generally also affects the validity of this particular decision making tool. What should be a high rating is consequently reduced to **medium**.

Dispute Settlement

In terms of dispute settlement, ISO has three points of entry for those entitled to complain. In technical work, only P- and O-members of a national body may appeal, as indicated above, in a system whereby the complainant goes to increasingly higher bodies until the dispute is settled i.e. from subcommittee to technical committee, thence to the TMB, and ultimately the Council. The decision of the Council is final. Complaints regarding standard setting largely relate to procedural matters only, unless matters of principle or the reputation of ISO is challenged. These disputes may be taken by a P-member to the committee chair for resolution, and if unsuccessful there, to the TMB.³¹⁷ Liaison organisations appear to have little ability to have grievances addressed within the ISO system. Designation of liaison status is at the discretion of P-members, and the applicants have no formal right of appeal.³¹⁸ Again, liaison organisations are supposed to give their approval to standards, but the mechanisms whereby they can complain if their backing has not been obtained are not specified.³¹⁹

ISO itself does not undertake certification of conformity to its own standards. It does not have a system to address complaints or disputes regarding the conformity of assessment by third parties or organisations using standards.³²⁰

Here the authority rests with the certification body awarding the certificate. From there the complaint could proceed to the body that accredited the certifier.³²¹

Interviews

Interviewees from the third group of key informants were the most positive regarding ISO's approach to dispute settlement processes, which were characterised as using both formal and informal methods. At the international technical committee level there was a formal dispute settlement process. Conflict at the lowest, working group, level was referred to the relevant sub-committee, and if it could not be settled here, to the technical committee itself.³²² In particular, the chairman's advisory group was empowered to look at decisions made. It was portrayed as a "court of appeal" to which a country could refer its grievance.³²³ Finally, it was possible to refer a complaint to the Technical Management Board for a decision. The TMB consists of twelve countries: ISO's largest members (including the US, Japan, France and Germany) occupied permanent positions, with the rest being rotated. National standards bodies determined whom to send, but it did not contain any NGO representatives.³²⁴ There were however no formal processes delineating in what manner, or from which interests, the Board was to seek input.³²⁵ The observation was made that there were also external dispute resolution mechanisms built into ISO's own standards, which obviated the need for protagonists to resort to such measures as the courts.³²⁶

Within TC 207 informal dispute settlement measures were more often used. This appeared to work most effectively when the dispute in question related to operational matters, rather than substantive issues, which could at times be heated.³²⁷ Disputes were eventually sorted out through compromise

arrangements.³²⁸ Alternatively, matters were worked out through repeated meetings; rather than seeking a two-thirds majority a committee chair might on occasions allow deliberations to continue until almost every national delegation agreed.³²⁹

Whilst business interviewees did not comment, the informal approach used in TC 207 elicited mixed responses from NGO subjects. Only one was able to recall an instance where conflict had resulted in a beneficial change as the result of extensive debate and discussion.³³⁰ Another interviewee commented that consultants acting on behalf of industry or government often manipulated the nature of disputes, and simply pretended that a contested political issue was not “feasible”, using a technical pretext to oppose something that was not in their brief.³³¹

Evaluation

Disputes within ISO appear to be managed by passing them higher up the command chain if they cannot be settled at source. There are also no detailed procedures for settlement. The lack of appeal procedures regarding accreditation of non-state interests and the ambiguity of procedures should there not be unanimous agreement amongst P members for their accreditation is problematic. So too is the lack of procedures on what to do in the case of a liaison organisation not giving its full and formal backing to an International Standard. These issues may explain why most disputes -- at least in TC 207 -- appear to have been settled largely informally. Given that there are dispute settlement measures in place, but that informal approaches appear to be the preferred model, the score is **low**.

Implementation

Behaviour Change

A connection has been made in the literature between the level of a company's performance, the degree of behaviour change, and the extent to which an environmental problem is addressed. One study of 40 Israeli companies hypothesises that the higher the standards adopted in ISO 14001 certified organisations, the better their environmental performance.³³² High standards relate to better performance when there is no gap between an organisation's planned environmental system and its daily activities. A certificate on the wall represents the lowest level of daily practice.³³³ The study points out a misconception in the ISO management standardisation literature, in which the view is expressed that certification provides for uniformity in implementation across organisations.³³⁴ In fact organisations seeking certification may have a range of objectives, such as meeting a customer's quality requirements, or complying with government regulations, and/or meeting an environmental objective.³³⁵ Although the Greek *isos* means equal, companies certified under ISO 14001 do not implement standards in the same way, and there are significant differences as to how they manage their environmental operations.³³⁶

Further studies have identified grounds for scepticism that the outcome of ISO 14001 certification, like other voluntary programmes, is little more than 'greenwash' that does little to improve members' performance.³³⁷ The most obvious grounds for scepticism is that since ISO 14001 is sponsored by an organisation with a heavy input from multinational corporations, environmental NGOs are justified in their suspicion of its self-regulatory approach. Secondly, the conditions under which companies are eligible to join the scheme are extremely

broad: companies with a poor compliance record can join up so long as they can afford to establish and maintain a certifiable EMS.³³⁸ Thirdly, firms can join ISO 14001 opportunistically without following its mandate since they lack the incentive of having invested in any assets specific to the scheme itself.³³⁹ Fourthly, although ISO 14001 does require annual rectification audits, it does not appear to have any methods to sanction members who fail to comply with standards. Finally, firms are not required to demonstrate improvements in regulatory compliance to stay accredited, and there is no guarantee companies will make use of the materials collected in the EMS process to actually improve performance.³⁴⁰ ISO 14001 merely seeks their commitment to do so, and considers the evidence that a company has established and maintained its EMS as sufficient.³⁴¹

Interviews

Observations regarding the ISO 14000 Series' ability to change behaviour were confined almost exclusively to NGO interviewees. A lot of blame was placed on the certifiers for the system's failure to change behaviour. British certifiers in particular had played one of the most damaging roles by lobbying ISO to develop an environmental management scheme once the ISO 9000 market became saturated. They wanted an easily accessible programme, capable of maximising their business opportunities, rather than one with ambitious performance targets that would only be accessed by ten to twenty per cent of businesses. The resulting standards were condemned as the result of deal between British industry and the certifiers. Industry wanted a green label without having to be green and the certifiers wanted to expand their markets. The role played by British interests had been harmful since it was claimed they were "light years" behind Germany and

the Nordic countries.³⁴² A second specific criticism of the programme's problem solving capacity was that it did not differentiate between the environmental pioneer and the heavy polluter, both of whom could be certified under the same standard.³⁴³

ISO 14001 was identified as being particularly open to abuse since it was regularly used for promotional purposes to make the world believe a company had a high environmental performance when it did not. There was nothing inherently wrong with using the system to analyse environmental performance in relation to the extent to which, for example, a company does or does not comply with the law. But there was a problem when the system was exploited as an instrument of quality assurance. A company might simply choose some easy -- and cheap -- performance-related fruits to harvest, such as reducing room temperatures by one or two degrees across the company. This could only be done once or twice before the room became too cold to work in, but over that timeframe a company could nevertheless demonstrate "continuous improvement" in its environmental performance. In this way it could implement easy solutions and avoid the need to undertake stronger environmental protection measures.³⁴⁴

The final NGO criticism was that the decision to have a thorough system was at the discretion of the company, and this decision reflected on the company itself, not the standard. In this case, any system the company adopted would be implemented with that intention of changing behaviour. The ISO EMS actually had very little to do with it.³⁴⁵ One business interviewee echoed this observation. What a company was prepared to implement had to be done with the conscious intention of improving performance. If this was the intention, the system could change corporate behaviour. That was the challenge of the system.³⁴⁶

Evaluation

Whether companies change their behaviour towards the environment as a consequence of being certified under ISO 14001 is disputed. There is even some evidence to suggest that companies may seek ISO certification to avoid the more onerous constraints of other systems. Behavioural change can certainly be associated with having an EMS in place, but this does not have to be an ISO one specifically. The degree of behaviour change also seems to depend on the company, not the system. The decision to orientate the ISO 14000 Series of standards around process outcomes, rather than performance has attracted both leaders and laggards. The extent to which laggards change their behaviour is likely to be limited. However, the fact that the ISO 14000 Series did include civil society interests appears to have resulted in a degree of behaviour change within the institution regarding NGOs. However, the extent of environmentally oriented change within the standard over its ten-year life has been limited. The failure of civil society interests (consumer and environmental) to change ISO 14001's focus away from process to performance leads to the conclusion that any institutional learning has been social-political, rather than social-environmental in nature. The impact of ISO 14001 in particular on changing behaviour, being the only certified standard, is mixed. The uptake of ISO 14031, relating specifically to environmental performance, has been low. This does not speak well for performance-enhancing benefits of the system as a whole. It is difficult to determine whether the score should be low or medium. The decision here is to err in favour of ISO and consider behaviour change as **medium**.

Problem Solving

ISO 14001's lack of mandatory external performance-based reporting has been cited by critics as proof that certification "will do little to avert the historical trend of global environmental damage closely associated with transnational industrial activity."³⁴⁷ Further evidence appears in another study to support the view that firms that certified with ISO 14001 between 1995-2001 tended to have a lower environmental performance than their peers. Of firms that already had an EMS in place before 1995 those with a poorer environmental performance were more likely to certify with ISO 14001.³⁴⁸ These findings directly contradict the testimony put before the US Congress by members of TC 207 that the scheme was designed to credibly differentiate organisations with superior environmental performance.³⁴⁹ Certification of weak performers can impact negatively on higher performers and the system as a whole; for example, if weak performers gain certification by simply improving the most easily achievable aspects of their environmental performance merely to fulfil the requirements of a supply chain partner.³⁵⁰ This leads to the conclusion that "strategic decisions shape the meaning and function of a certified management standard, and it shows that this realised meaning differs from that expected by some of the institution's creators."³⁵¹

A decision was made to remove compliance and performance auditing measures from the ISO 14000 Series in 1995.³⁵² Nevertheless, ISO 14001 has been defended for its anecdotal ability, through the adoption of environmental management practices, to improve self-reported compliance with public law.³⁵³

This has led to a conjecture that:

ISO 14001's mandated third-party auditing mitigates wilful noncompliance by compelling members to measure up to club standards while ISO 14001's EMS standards address noncompliance stemming

from ignorance by directing members' attention to root causes of regulatory noncompliance.³⁵⁴

Related analysis supports the credibility of ISO 14001 by demonstrating that the scheme does improve regulatory compliance, and this is to be understood as an improvement that is beyond what would have happened had the firms not joined.³⁵⁵ However, compliance improvements generally occur within a regulatory environment where facilities receive government-initiated inspections, and regulatory stringency effectively compels companies to join a scheme such as ISO 14001. It also appears that voluntary regulation cannot replace mandatory regulation, nor would ISO 14001 be as effective if mandatory requirements were weaker. It is likely that the efficacy of such voluntary programmes varies across regulatory and policy environments.³⁵⁶

A number of studies have revealed the environmental performance of firms involved in voluntary schemes is mixed, and depends on the scheme adopted.³⁵⁷ There is clearly a need “to look beyond regulatory compliance and examine whether joining ISO 14001 improves facilities’ environmental performance, that is reduces their pollution emissions.”³⁵⁸ The authors of a 1998 US study of 55 certified companies conclude that ISO 14001 serves as a “‘least common denominator’ of voluntary commitment to environmental protection beyond regulatory compliance.”³⁵⁹ However they consider the standards of the Series “neither detailed nor strong enough in their current state to be the crucial international policy tool that it has the potential to be.”³⁶⁰ They further conclude that ISO 14001 should be used only as a management tool and that “it is not strong enough to be used as an effective regulatory tool.”³⁶¹ They found that company-specific EMSs often meet most of the ISO 14001 requirements. This makes it difficult to detect significant changes in environmental performance

upon implementation of ISO 14001, questioning its value to companies if they already have an EMS in place.³⁶² One sceptical view argues that measuring environmental performance cannot be achieved using solely systems-based auditing, either ISO 14001, or EMAS. It provides the evidence that “an analysis of information from 280 European companies at 430 production sites turns up no statistically significant relationship between better environmental performance and certification.”³⁶³

Nevertheless there is some evidence that the adoption of an EMS can be linked to better site environmental management and regulatory performance, and can reduce air emissions and hazardous waste production.³⁶⁴ However, it is important to stress here again that it is the adoption of an environmental management system itself that is associated with performance improvement, not necessarily the certification process of ISO 14001, according to a later study of 7,899 manufacturing facilities in the US undertaken by Duke University researchers.³⁶⁵ Echoing the 1998 study, they also found that certification in itself does not necessarily lead to improvement nor does it signal superior performance.³⁶⁶

This has been recognised by environmental advocates who expressed disappointment that the 2004 revised standard had not been changed in response to accusations that it did “not even require improved performance, only a commitment to continually improve the management system.”³⁶⁷

Interviews

NGO and business informants looked at the Series’ problem solving capacity from different perspectives. There were a number of objections from NGOs regarding the value of putting an ISO EMS in place. The first was that the systems-based approach to environmental management was questionable

conceptually. Because it had no performance requirements, it was untrue to claim that it was a system of environmental excellence and good environmental performance. The standards bodies and their dual imperatives of selling standards and appeasing business were the main reason for this weakness, exemplified by the low uptake of the only ISO 14000 Series standard related to performance, 14031.³⁶⁸ Secondly, the preponderance of technical interests within the ISO system was seen as a barrier to solving specifically environmental problems. They were useful if the matter under discussion concerned the tolerance threshold of light bulbs, for example. But once ISO initiated the 9000 and 14000 Series, where discussions had moved on to matters of quality and environmental management, technicians were not sufficiently competent.³⁶⁹ NGOs also questioned the extent to which the ISO 14000 Series solved the targeted problems of pollution prevention and waste reduction, pointing to European studies, which were equivocal regarding the system's abilities in these areas. One Swiss study considered ISO 14001's results regarding reductions in the use of materials, waste production, and in energy consumption to be "disillusioning."³⁷⁰

Business interviewees admitted in one instance that the failure of ISO to include any performance requirements was a disappointment to some of its earliest and most influential industrial advocates. However, there was nothing inherently wrong with having a systems-based approach, so long as it was understood that it did not provide any indication of performance, and that standards in the Series were used for the right purpose. A similar observation could be made concerning performance standards. In the same way that such standards needed some systems-based elements to interpret performance along a continuum, systems based standards needed performance-related requirements as

well.³⁷¹ This meant that for a company the ISO management system had to be written in such a manner that its implementation led to actual environmental improvement.³⁷²

Business interviewees and informants from group three identified a number of issues relating to the Series' actual contribution to environmental problem solving. One obstacle resided with the standards bodies themselves. Because they were generally only responsible for setting standards they were less interested in how they were implemented. This was seen as impeding their ability to exercise control or to address the public policy implications associated with the implementation.³⁷³ Secondly, the scheme only measured the extent to which a given management system complied with the standard; it did not demonstrate how the standard had improved the situation on the ground.³⁷⁴ Clients misunderstood the fact that the Series was not intended to make such value judgments.³⁷⁵ Furthermore, there was no 'green label' associated with the ISO 14001 certificate.³⁷⁶ This had led to the unintentional and negative outcome that clients had certain expectations of the Series that it was never intended to address. They wanted certifiers to accredit them as a 'green' company and they wanted to make claims on their products. They thought that because they had an environmental management system their customers should pay a premium for buying a green product. However, the standards were not directed towards that outcome, they were a process to any outcome. Some certifiers had explained the limits of the system; others had not. The deliverables had been oversold, and had created problems with clients when they found out what they had actually bought.³⁷⁷ Consequently, ISO 14001 in particular needed to be understood as simply offering

a useful framework.³⁷⁸ It was best regarded as another management tool, and not as a marketing tool because of its system- not performance orientation.³⁷⁹

The same two groups offered some thoughts on ISO's dealings with forest management. One interviewee explained that the standards only covered matters that related to how an environmental management system was operationalised. In terms of associated product labelling, the standard did not stipulate what the requirements should be in terms of on-the-ground forest management; nor were there specific provisions for how stakeholders were to be involved or how a programme was to be run by the company.³⁸⁰ According to business interviewees, the limits of the programme were understood by the sector.³⁸¹ Its value was seen in terms of its application to the development of a good environmental management system.³⁸² It provided the necessary management system requirements, whilst certification, via FSC in particular, met the necessary environmental requirements and appeased NGOs.³⁸³ One industry solution to the lack of a label with ISO 14001 had been to group together by country and combine existing national forest certification systems into an international programme that could be used for marketing purposes.³⁸⁴ One informant commented that ISO itself had also accepted the ultimate failure of its foray in forestry. In comparison to FSC and PEFC, it had no real role in forestry, given the age, lack of interest in and use of ISO 14061, and -- combined with the degree to which things had moved on since 1998 -- it was likely to be dropped.³⁸⁵

Evaluation

ISO 14001 has the prevention of pollution as a policy commitment.³⁸⁶ There is however a considerable difference between a policy commitment and an actual impact on environmental quality. ISO 14001's weakness with regard to the latter

is attributable to the fact that the standard sets no thresholds, and contains no specific performance targets. These aspects of the standard have been visited several times in the course of this study, and they appear continually in the literature, and amongst some of the key informants interviewed. The ISO 14000 Series has certainly not been successful in tackling pollution on a global level, but it has, along with other environmental management, made a contribution. However, this contribution has occurred alongside a deeper normative shift in environmental attitudes in the wake of Rio, whereby certain companies have embraced sustainability changed their industrial practices on a more profound level than that offered by 14000. Had the interests behind the creation of the SAGE and TC 207 made a different set of decisions regarding what was to become the ISO 14000 Series, the impact may have been greater. Given the equivocal nature of the literature, the strident criticisms of some stakeholders, the desire of some of the standard's original framers for more -- rather than less -- stringency, and the absence of performance measures necessary to render the standard effective, the score is **low**.

Durability

In the past ISO's activities have been oriented around producing technical standards for specific products, but the more recent expansion in its scope is having wider impacts on social and environmental policy generally. These activities include environmental and water management, greenhouse gas emission accounting and verification, and the ethical behaviour of business, now the subject of an international standard for social responsibility.³⁸⁷ TC 207 has also adapted to the need for greater NGO inclusion, attributing its ability to change to the

“flexibility and latitude” that ISO’s committees and subcommittees enjoy under ISO procedures.³⁸⁸

Interviews

Two interviewees acknowledged ISO’s longevity.³⁸⁹ One business interviewee noted that one of the organisation’s strength was that it has been developing standards for more than fifty years, and as a consequence its technique was good. A weakness was its historical association with largely technical standards, the procedures of which were less adequate for its new move into social responsibility and environmental management.³⁹⁰ This was corroborated to a certain degree by one interviewee from group three, who recognised that other institutions were better adapted to dealing with environmental issues and ISO’s procedures were not really suited to making what amounted to political decisions about what was and was not acceptable.³⁹¹

Unless standards bodies changed NGOs argued that they would continue to question the processes associated with the ISO 14000 Series at the national level. They noted however that the working group on social responsibility had created a precedent that the standards bodies would have to follow eventually, albeit slowly. Standardisation was furthermore acting as a complement to legislation, particularly in Europe, where conformity to legislation was becoming a precondition to accepting standards documents. At some future date standards bodies might be asked to change their procedures, and since they had changed them in the past there was no reason not to do so in the future. However, they felt standards bodies tended to be defensive when criticised and pointed to a lack of a culture of political debate as an impediment to change, meaning they would require external pressure before they reacted.³⁹² They saw part of the problem as

being linked to the fact that ISO's standards setting procedures had never been subjected to any kind of debate; consequently when they were criticised, this was interpreted as a threat.³⁹³

Interviewees from group three also identified the need to change, particularly with regard to how it managed interest representation. The tension between international organisations' participation versus the role played by national member bodies might eventually result in the development of ways to combine the two approaches. However, ISO was struggling with these changes, but they were necessary otherwise the organisation would be left behind. There were some considerable challenges regarding the extent to which the organisation's members were prepared to embrace such new concepts. Nevertheless, the institution was changing, albeit slowly.³⁹⁴ One business interviewee echoed this view, commenting that it took the institution an extremely long time to implement any change.³⁹⁵ In the case of TC 207 in particular another NGO interviewee acknowledged that some NGO recommendations had been adopted, but the process was very slow.³⁹⁶

Evaluation

ISO is a long-lived institution. It has proved itself capable of adapting to changed circumstances, moving first from the standardisation of products, to processes, and now systems. It has moved into different policy arenas, including those related to environmental sustainability and social responsibility. Procedurally, it has a degree of flexibility, which allows it to deal with changing circumstances, such as the arrival of new stakeholders onto the scene. However, the degree of latitude that can be exercised within the standards setting processes by those responsible for managing the various committees, subcommittees and working

groups can also act contrary to the participatory structures of the institution. There is also a degree of resistance to change in some member bodies, which has made change slow. Nevertheless, the ISO 14000 Series of standards have also gone through two iterations in some cases, and are proving their durability. Given the overall longevity, adaptability and flexibility of the institution as well, the rating here is **high**.

Governance Quality of ISO

Commentary

Table 5.4 Evaluative matrix of ISO governance quality

<u>Principle</u>	<u>1. Meaningful Participation</u>					
<i>Criterion</i>	1. Interest representation Highest possible score: 9 Lowest possible score: 3 Actual score: 5			2. Organisational responsibility Highest possible score: 6 Lowest possible score: 2 Actual score: 3		Sub-total (out of 15): 8
Indicator	Inclusiveness	Equality	Resources	Accountability	Transparency	
High						
Medium	2		2	2		
Low		1			1	
<u>Principle</u>	<u>2. Productive deliberation</u>					
<i>Criterion</i>	3. Decision making Highest possible score: 9 Lowest possible score: 3 Actual score: 5			4. Implementation Highest possible score: 9 Lowest possible score: 3 Actual score: 6		Sub-total (out of 18): 11
Indicator	Democracy	Agreement	Dispute settlement	Behavioural change	Problem solving	Durability
High						3
Medium	2	2		2		
Low			1		1	
Total (out of 33)						Final Score: 19

ISO and the 14000 series in particular received nineteen points out of a maximum total of thirty-three. Four indicators achieved low ratings (equality, transparency, dispute settlement and problem solving), and one the highest rating (durability). On the criterion level the conventional pass/fail target value of 50% for interest representation (56%), decision making (56%) and implementation (67%) was exceeded; organisational responsibility reached, but did not exceed, the target value. At the principle level of meaningful participation, the combined values of the two generated a result of 53%, exceeding the target value of 50%; in the case of productive deliberation the target value was also exceeded with a result of 61%. A total score of 58% was achieved overall.

Postscript

Developing NGO Relations

As indicated in the historical overview, TC 207's relations with NGOs have evolved, and are continuing to evolve, over the life of the 14000 Series. Two main items are worthy of note. The first relates to the ongoing development of structural participation by NGOs within TC 207, the subject of unfinished business at the time the historical overview was first prepared for this case study. The second refers to the ongoing NGO concern over the intrinsic value of the 14000 Series.

TC 207 has continued to examine its participatory structures since further effort to ensure "meaningful representation" from developing countries and NGOs was identified in the 2005 Strategic Plan.³⁹⁷ In April 2007 the ISO TC 207 NGO/CAG Task Force published a number of draft recommendations on interest group participation and deliberation within the system.³⁹⁸ These included addressing the problems associated with balanced representation (including the

role of liaison organisations and national level input into ISO's structures), as well as the principle of consensus building and other procedural issues associated with standards development and appeals.³⁹⁹

One of most noteworthy proposals was to develop new categories for those participating in meetings, classified under the new headings of Government, Producer Interest, Service/Professional and General/Public Interest, and to track the balance of meetings based around these four categories.⁴⁰⁰ Much of the materials on how to achieve balanced representation were taken from the ISO Working Group on Social Responsibility, and it was further acknowledged that there were currently "no provisions in place to achieve a balanced composition in Working Groups."⁴⁰¹

In relation to consensus building, it was recommended that there should be written procedures detailing what was meant by "sustained opposition" and "substantial objections" and that these procedures should be available to both participant P-members and liaison organisations. Objections, it was further suggested, should be treated equally regardless of the level of the organisation or member objecting, and all conflicts were to be resolved "as far as possible."⁴⁰² In addition, "informal conflict resolution mechanisms" were to be developed, in an attempt to keep disputes out of the wider ISO system and address them within TC 207 itself.⁴⁰³

Shortcomings in involving relevant interests at the national level were also identified as part of NGO-CAG Task Force process, and national standards bodies were interviewed to determine their current activities and views.⁴⁰⁴ Failure to achieve "optimal stakeholder balance", and the lack of resources, especially in terms of travel and accommodation, were identified as impediments to national-

level engagement and consultation. The inconsistencies in arrangements for interest representation at the national level from country to country were also identified.⁴⁰⁵

Despite the recognition of these problems, and the suggestions to address them, a degree of opposition is to be found in various comments made by some national standards bodies to the proposals. The French response clearly articulates unease at the new provisions, most significantly expanding the role and powers of non-state interests, and re-examining the consensus building provisions. A concern was expressed that under these new proposals, it would no longer be possible for any national delegations to “be then labelled any more according to the origin of its representativeness [sic]”.⁴⁰⁶ The proposals were also met with resistance from the UK member body, which indicated it was “happy to discuss” the process but did “not agree with the content of the proposals.”⁴⁰⁷ If such changes were to be made, they should be applied across all of ISO’s TCs.⁴⁰⁸ These provisions have yet to be finalised.

In October 2007, NGOs published a review of the 14000 Series.⁴⁰⁹ Repeating earlier claims that the Series lacked mandatory performance requirements and indicators, they called for “substantive reform.”⁴¹⁰ The current approach, they argued, shifted decisions away from “democratic institutions, involving public interest advocates” to the companies themselves, which meant that, given the absence of minimum performance requirements, “even legal compliance cannot be taken for granted.”⁴¹¹ NGOs also reiterated previous criticisms that the failure to differentiate between good and bad performers further demonstrated that there was “not much convincing evidence on the table” to show that the EMS standard had in fact improved performance.⁴¹² As a result, the system continued to be built

around largely procedural issues rather than substantive guidance, which in the case of 14001 rendered the instrument “questionable” and made it “an ideal greenwash tool.”⁴¹³

Conclusions

ISO’s development in the direction of environmental and social standards has resulted in considerable attention being paid to the role, nature and extent of participation and deliberation within the institution. This attention comes from several different quarters. The scholarly literature generally emphasises the business orientation of ISO and the role of business in crafting and directing ISO’s new approach in the pre- and post Rio world. The reports focussed around NGO activities generally stress the nature of non-state involvement, presenting a strong case that it is both structurally and procedurally weaker than that enjoyed by ISO’s member bodies. There is almost universal recognition that the extent of developing country representation within ISO, whether it is on the level of country membership, or in terms of southern NGO involvement, is problematic. Not surprisingly, the picture painted by the institution itself is generally upbeat. Here the emphasis is on the importance attributed to the participation of all types of members and liaison organisations and the consensus-based nature of deliberation regarding standards development.

Given the external and internal analysis it is clear why certain sectors contest the conceptions of participation and deliberation within ISO. In terms of ‘participation as structure’ some interests cannot participate at all. Correspondent and subscriber members cannot vote in ISO’s supreme body, the General Assembly, where voting membership is based not just on having a fully fledged standards setting body domestically, but also on ability to pay. This impacts on

interest representation within the institution itself. Given the lack of balance between ISO membership by region, and participation in technical committees, there are also some structural inequalities in participation within ISO. Western Europe, for example, with its greater access to resources, plays a much larger role than Africa, despite the latter's larger percentage of membership by region. Secondly, with no clear rules on how country members are to receive the input of domestic stakeholders, interest representation within enfranchised member bodies is also inconsistent. This has impacts on both the accountability of member bodies to their domestic constituencies, and on ISO itself as an accountable member of the global community.

Within the technical committees themselves participation is differentiated, between P- and O-members and liaison organisations. P-members clearly dominate the decision making, and whilst some O-members may consciously choose a lesser status, they may still reserve the right to vote on standards when they go to ballot. Not only are liaison members not permitted to participate in the General Assembly, they may neither vote within technical committees nor on standards when they go to ballot. This affects the democratic nature of the decisions made within technical committees. The evidence of the participatory structures and deliberative processes within TC 207 provides some corroboration of the broader institutional survey above. The use of majority voting when confronting controversial -- most often forest related -- issues within a number of the subcommittees and working groups would appear to contradict both the spirit and practice of consensus. These historical practices within TC 207 have the potential to render ISO's WTO-related commitments to consensus as little more

than tokenistic, and largely for trade-related, rather than good governance, purposes.

However, ISO has proved itself to be somewhat flexible in adapting to the changed stakeholder dynamics brought about by moving into environmental and social standards development. It is even possible to see a degree of learning and reflexivity in the initial attempts to address stakeholder participation in TC 207 influencing other technical committees (TC 224) and in the more progressive approach adopted within social responsibility initiatives.⁴¹⁴ But given the amount of time to address issues such as developing-country representation (more than 45 years) and NGO participation (almost a decade), and the unfinished nature of this business, change is slow.

ISO 14001 is intended to encourage organisations to commit themselves to compliance with relevant domestic legislation and regulations, continually improving their overall environmental performance and preventing pollution.⁴¹⁵ However, with respect to environmental performance it is the company that determines the level it wishes to reach and what objectives it intends to meet. All the company is required to do is demonstrate that it is continually improving its on the ground performance until it meets its own self-created environmental policy. Even ISO advocates acknowledge that sceptics see this as a weakness.⁴¹⁶ NGOs voiced their opposition to the process- versus performance-based approach, and expressed their disquiet over the ISO 14001 and SFM linkages. This critique -- and NGOs' failure to have it addressed within the structure and processes of ISO -- is significant. Whether the ISO 14000 Series can be shown to have improved environmental performance and to have tackled the problem of industrial pollution in its absence is important. The effectiveness in

implementation of the 14000 Series may therefore be a key determinant in the quality of governance associated with TC 207 specifically, and ISO generally.

ISO has reached a significant point in its history, but where it goes from here is uncertain. It has moved beyond the development of product standards relating to such relatively simple concepts as the orientation of the thread on a screw, the subject of its first standard. The change from product to process standards in the ISO 9000 Quality Management Series marked the transition. Since Rio, with the support of world governments and world trade, it has been elevated to a leadership position in such highly complex global issue areas as environmental management, and now, social responsibility. Previously, ISO merely provided a decision making space for deliberating technical solutions in response to the needs of a client base largely comprised of business, or manufacturing, interests. The decision to pursue the objective of pollution prevention, willingly taken at the behest of such bodies as the ICC and UNCED, brought with it a whole new series of responsibilities -- and new constituents. Now it was obliged to cater to the economic, environmental and social dynamics of sustainable development, which included balancing the demands of a range of multi-stakeholders operating at multiple levels, not all of them satisfied with a purely technical response to a given problem.

Unfortunately, the future ISO 14000 Series was to be built on the participatory and deliberative practices of the past. Furthermore, TC 207's agenda had also been effectively set before standards discussions began. This included the decision to pursue a systems- rather than performance-based approach to environmental management. These two issues were to become major sticking points for ISO's new environmental and social stakeholders. They objected to

both the institution's exclusive participatory arrangements, in which environmental and social stakeholders were effectively second-class citizens, and the Series' failure to embrace any performance targets. These two elements were to form the basis of civil society criticisms of the Series, and still do.

The ability for the NGOs present in the system to make anything other than incremental gains in the various decision making processes within TC 207 has been limited. The systems-based approach has left much of the implementation and policy-related aspects of the ISO 14000 Series in the hands of the companies purchasing the standards -- for better or worse. NGOs have effectively won the participation debate, and some concessions have been made at this point.⁴¹⁷ But the increased recognition of NGO participation may have been won at the expense of environmental performance. The defeat of interests seeking to extend the ISO 14001 systems-based approach to the certification of SFM through a sector-specific standard is one notable exception.

Whether ISO can, or will, change at a more profound level remains to be seen. The problems associated with moving away from its existing structures and processes, not the least of which is the one-country-one-vote approach to democracy are likely to make any change extremely slow. There are positive signs, but some of the larger issues, such as the enfranchisement of civil society, or North/South equity, whilst acknowledged, continue to meet resistance from some national standards bodies. This resistance would appear to highlight the tensions between state and non-state interests in the ISO system, or perhaps better stated, between those interests currently benefiting from the status quo, and those seeking more influence. NGOs also continue to be unhappy about the lack of performance requirements in ISO 14001.

Endnotes

¹ ISO 14000 does not exist as an individual standard; rather it is to be understood as a series of environmental management standards describing the basic elements of an environmental management system (EMS). The standards have been and are being developed under ISO Technical Committee 207. Only one, 14001, has been developed for the purposes of third-party certification (Tom Tibor and Ira Feldman, *ISO 14000: A Guide to the New Environmental Management Standards* (Chicago, London and Singapore: Irwin professional Publishing, 1996) pp. 4-45).

² ISO, *My ISO Job: Guidance For Delegates and Experts* (Geneva: ISO central Secretariat, 2005), p. 2.

³ Mari Morikawa and Jason Morrison, *Who Develops ISO Standards? A Survey of Participation in ISO's International Standards Development Processes* (Oakland: Pacific Institute, 2004), p. 25.

⁴ Pierre Hauselmann, *ISO Inside Out: ISO and Environmental Management*, second edition (Godalming: WWF International, 1997), p. 4.

⁵ Article 2.1, ISO Statutes and Rules of Procedure, cited in Sebastian Oberthür, Matthias Buck, Sebastian Müller, Stefanie Pfahl, Richard G. Tarasofsky, Jacob Werksman and Alice Palmer, *Participation of Non-governmental Organisations in International Environmental Governance: Legal Basis and Practical Experience* (Berlin: Ecologic/Centre for International and European Environmental Research, 2002) p. 164.

⁶ ISO, *My ISO Job*, p. 3 (as of October 1, 2005).

⁷ Morikawa and Morrison, *Who Develops ISO Standards*, p. 4.

⁸ Morikawa and Morrison, *Who Develops ISO Standards*, p. 5.

⁹ Kelly Kollman and Aseem Prakash, "EMS-based Environmental Regimes as Club Goods: Examining Variations in Firm-level Adoption of ISO 14001 and EMAS in U.K., U.S. and Germany", *Policy Sciences* 35 (2002), pp. 43-67 at p. 49.

¹⁰ Ibid.

¹¹ Susan Summers Raines, "Perceptions of Legitimacy and Efficacy in International Environmental Management Standards: The Impact of the Participation Gap", *Global Environmental Politics* 3 (3) (2003), pp. 47-78 at p. 49.

¹² Bas Arts, "Non-state Actors in Global Governance: New Arrangements Beyond the State", in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi and Michael Zürn (Basingstoke and London: Palgrave Macmillan, 2006), pp. 177-200 at p. 190, Kollman and Prakash, p. 49.

-
- ¹³ Jennifer Clapp, "Global Environmental Governance for Corporate Responsibility and Accountability", *Global Environmental Politics* 5 (3) (2005), pp. 23-34 at p. 25.
- ¹⁴ Ibid.
- ¹⁵ Ibid, footnote 14, citing Pratap Chatterjee and Matthias Finger, *The Earth Brokers: Power Politics and World Development* (London: Routledge, 1994) and Matthias Finger and James Kilcoyne, "Why Transnational Corporations are Organizing to 'Save the Global Environment'", *The Ecologist* 27 (4) (1997).
- ¹⁶ Kollman and Prakash, "EMS-based Environmental Regimes as Club Goods", p. 50.
- ¹⁷ Ibid.
- ¹⁸ Saeed Parto, "Aiming Low", in *Voluntary Initiatives: The New Politics of Corporate Greening*, ed. Robert B. Gibson (Peterborough: Broadview Press, 1999) p. 182 (footnote 4).
- ¹⁹ Jennifer Clapp, "Standard Inequities" in *Voluntary Initiatives: The New Politics of Corporate Greening*, ed. Robert B. Gibson (Peterborough: Broadview Press, 1999), p. 201.
- ²⁰ Parto, "Aiming Low", p. 183.
- ²¹ Jennifer Clapp, "Standard Inequities", p. 199 and footnotes 3 and 4, p. 208 (referring to *Agenda 21*, Chapter 30, paragraph 30.8 and Chapter 20, paragraphs 20.11, 20.13 and 20.9).
- ²² Tibor and Feldman, *ISO 14000*, p. 32.
- ²³ Canadian Standards Authority, "About ISO/TC 207", <http://www.TC207.org>, accessed 10/05/07.
- ²⁴ Ibid.
- ²⁵ Ibid.
- ²⁶ Raines, "Perceptions of Legitimacy and Efficacy," p. 50.
- ²⁷ Ibid.
- ²⁸ Jennifer Clapp, "Standard Inequities", p. 201.
- ²⁹ Kollman and Prakash, "EMS-based Environmental Regimes as Club Goods", footnote 13, p. 63.
- ³⁰ Saeed Parto, "Aiming Low", p. 191.
- ³¹ Morikawa and Morrison, *Who Develops ISO Standards*, p. 6.
- ³² Arts, "Non-state Actors in Global Governance", p. 190. In a slightly alternative analysis, it has been argued that the EMS approach was influenced by the thinking of scholars in the late 1980s, that pollution essentially represented resource wastage, making pollution control a matter of quality assurance (Matthew Potoski and Aseem Prakash, "Regulatory Convergence in Nongovernmental Regimes? Cross-National Adoption of ISO 14001 Certifications" *The Journal of Politics* 66 (3) (2004), p. 888, citing Michael E. Porter, "America's Green Strategy", *Scientific American* 264 (4) (1991), p. 168). The issue of quality-based management versus systems-based management certainly influenced the thinking behind the creation of TC 207 as a separate standards development body. See below.

³³ Christopher Elliott, *Forest Certification: A Policy Perspective* (Bogor: Center for International Forestry research, 2000), p. 13.

³⁴ <http://www.TC207.org>, accessed 10/05/07.

³⁵ *Articles and News*, “Summary Report – 2nd Meeting of ISO/TC 207 in Australia”, (December, 1994), p. 1.

³⁶ ISO, “Committee Structure” http://www.TC207.org/struc_detail.asp?group=SC7, accessed 18/06/08. This originated from WG5 and WG6 on climate change. The Working groups on climate change have resulted in a further series of Standards, ISO 14064, on the quantification, monitoring and reporting of greenhouse gas emissions (ISO/TC 207/CAG N386, “Communiqué 13th Annual Meeting of ISO/TC 207 on Environmental Management” (September, 2005), p. 1). ISO 14065 on the requirements for greenhouse gas validation and verification bodies for use in accreditation and other forms of recognition was published in April 2007 (ISO, “ISO 14065 standard new tool for international efforts to address greenhouse gas emissions”, <http://www.iso.org/ISO/pressrelease.htm?refid=ref1054>, accessed 23/07/08).

³⁷ ISO, <http://www.TC207.org>, accessed 10/05/07. As of 18/06/08 WG 4 was no longer listed.

³⁸ Oberthür et al, *Participation of Non-governmental Organisations*, pp. 167-168.

³⁹ Morikawa and Morrison, *Who Develops ISO Standards*, p. 18.

⁴⁰ Ibid.

⁴¹ Morikawa and Morrison, *Who Develops ISO Standards*, pp. 18-19.

⁴² Ibid.

⁴³ ISO/TC 207, “Increasing the Effectiveness of NGO Participation in ISO TC 207”, N590 Rev/ISO/TC NGO TG N28, 30/06/2003, p. 2. The report noted that:

The quality of any standard is directly related to the depth and breadth of expertise brought to bear in its development. A standard-setting body that fails to engage the necessary expertise is compromising its ability to produce valuable standards. TC 207 is not the only body setting environmental management standards. Due to resource limitations, all parties interested in environmental standardization face a choice between working with TC 207 and working within other standardization bodies. NGOs are a stakeholder group with a unique perspective and particular expertise. As with other stakeholders NGOs tend to engage with those bodies where they perceive their participation is most effective. If TC 207 wishes to retain the expertise NGOs can bring, it should make an effort address what NGOs perceive to be the main obstacles to their effective participation. If course, effective NGO participation in a consensus-based process can only be assessed relative to the effectiveness of other stakeholder groups’ opportunity to influence the decision making process (ibid).

The report provides a definition of an NGO as “a non-profit association of citizens that operates independently of government or business structures and has non-commercial objectives related to environmental, consumer interest or sustainable development” (ISO/TC 207, “Increasing the Effectiveness”, p. 4).

⁴⁴ ISO/TC 207, “Increasing the Effectiveness”, p. 5.

⁴⁵ Ibid. The report also identified the impact that long, drawn out international negotiations had on participation, due to staff turnover as well the predominant use of English, amongst other issues (ISO/TC 207, “Increasing the Effectiveness”, pp. 10-13).

⁴⁶ ISO/TC 207, “Increasing the Effectiveness”, pp. 10-13.

⁴⁷ IISD-ISO “A Background Paper to the International Organization for Standardization’s (ISO) Strategic Advisory Group on Corporate Social Responsibility”, CSR Briefing #1 (January, 2003), p. 4.

⁴⁸ Ibid.

⁴⁹ Morikawa and Morrison, *Who Develops ISO Standards*, pp. 18-19.

⁵⁰ ISO/TC 207 NGO-CAG Task Force, “Phase 1 of Workplan”, Interim Report, Final Draft (September, 2004), p. 1.

⁵¹ ISO/TC 207 NGO-CAG Task Force, “Phase 1 of Workplan”, pp. 1-4.

⁵² INNI, “Report from the ISO/TC 2007 2005 Plenary Meeting” media release (17/10/05), <http://inni.pacinst.org/inni/EMS.htm>, accessed 02/05/07 and “ISO/TC 207 Approves Workplan to Improve NGO Participation” media release (18/01/05), <http://inni.pacinst.org/inni/NGO.htm>, accessed 02/05/07.

⁵³ INNI, “NGO Task Group Within ISO’s Environmental Committee Develops Operational Guidance to Improve Stakeholder Involvement”, media release (3/7/2006) <http://inni.pacinst.org/inni/EMS.htm>, accessed 02/05/07.

⁵⁴ ISO TC 207 NGO/CAG Task Force “Draft: Recommendations for an Improved Balance of Stakeholder Participation in ISO TC 207” (February 2006), p.2. Similar experiences have been identified elsewhere in terms of both NGO- and developing countries’ efforts to participate meaningfully within the wider ISO system. TC 224 was created in 2001 to develop water management Standards, and also revealed low numbers of NGO participation. Industry, standards bodies, consultants and governments were most represented sectors in both committees during the period up to 2004, and there were no southern NGOs (Morikawa and Morrison, *Who Develops ISO Standards*, pp. 18-22). This led to an observation that:

One of the major arguments in favour of the creation of the water management standards was to improve water provision to underserved populations in less developed countries. Nevertheless, under-representation by less developed regions of the world is evident in TC 224. Considering that ISO’s water management standards will have more significant implications in these countries than in the industrialised nations, the lack of participation from the Southern hemisphere is an issue of concern (Morikawa and Morrison, *Who Develops ISO Standards*, p. 21).

Despite programmes to improve developing country involvement, more than half of developing countries in TC 224 did not cast their votes or submit comments on the draft standards (INNI, “First Drafts of ISO’s Water Management Standards Approved”, media release (21/07/05), <http://inni.pacinst.org/inni/Water.htm#FinalizationOf>, accessed 03/05/07). One NGO commented that this was “especially concerning given ...that more meaningful participation by developing countries has been repeatedly recognized as important by the membership of TC 224” (ibid).

The ever-increasing role of ISO in matters of social and environmental policy is demonstrated in a third process, on corporate social responsibility (CSR). In early 2001 the ISO Council (effectively ISO's board of directors) asked COPOLCO, ISO's consumer committee, to consider the viability of international CSR standards (IISD-ISO CSR Briefing #1, p. 3). This initiative, both informed and catalysed by the British Standard Institution's (BSI) Sigma Project, a national Israeli standard, and discussions in the US and Japan resulted in a report submitted to Council in the second half of 2002. In response to the report, the ISO Council passed a resolution to requesting ISO's Technical Management Board (TMB) to create a high level Strategic Advisory Group (SAG) on CSR (IISD-ISO CSR Briefing #1, p. 1). COPOLCO had previously adopted a resolution regarding ISO's need to ensure that any CSR initiative should "ensure that the perspectives of the full range of stakeholders are meaningfully involved [and that] ISO needs to engage in close and regular communication with other international organizations engaging in work in this area" (COPOLCO Resolution 20/2002, cited in Morikawa and Morrison, *Who Develops ISO Standards*, p. 22 footnote 32). COPOLCO's went further: "In the ISO CR [corporate responsibility] standards development process, meaningful and balanced representation of all stakeholders is essential for the standards to be perceived as credible in the marketplace" (ibid).

Taking COPOLCO's resolution into account, the TMB established the SAG in December 2002, consisting of 16 members from a range of regional and sectoral interests, expanding the membership by three in September 2003 to include an international environmental NGO, an international human rights organisation and an industry group. Subsequently, the TMB was to recommend further that any Technical Committee and associated body should include the same spread of interests as contained in the SAG itself. In June 2004, ISO convened a conference on SR, inviting delegations of member bodies to ensure balanced representation of stakeholders, although no procedure to do so was given. Subsequent to the conference the TMB made a decision that ISO should develop a social responsibility standard (Morikawa and Morrison, *Who Develops ISO Standards*, pp. 23-24). The enabling resolution contained several statements recognising stakeholder involvement and the provision of resources for this to happen, and also "agreed to ensure that ISO processes are adjusted where necessary to ensure meaningful participation by the full range of interested parties" (ISO Technical Management Board resolution 35/2004 in: Morikawa and Morrison, *Who Develops ISO Standards*, p. 24).

After two meetings in 2005 to lay the groundwork for what was to become an international standard for social responsibility, an ISO working group commenced drafting the contents of the new standard. Three Task Groups (TGs) were created to examine specific clauses. A second iteration of the draft was to be the subject of discussion and resolution at a meeting in Lisbon in May 2006 (INNI, "Drafting of ISO Social responsibility Standard Begins" media release (07/03/06), <http://inni.pacinst.org/inni/CSR.htm#SocialResponsibility>, accessed 02/05/07. Slightly before the meeting a sign-on letter was sent to the ISO Central Secretariat by 12 NGOs expressing concern over the status of interest representation in the process on two fronts. The first concerned lack of transparency regarding participation to date particularly at the national level, whilst the

second related to the lack of funding and support to enable civil society participation in the standard's development. This was despite the fact that the SAG had set several preconditions and recommendations regarding full and balanced stakeholder participation in the standard development process (INNI, "Improving the ISO 26000 Standard Development Process" media release (31/07/06), <http://inni.pacinst.org/inni/CSR.htm#SocialResponsibility>, accessed 02/05/07). This led one NGO to comment:

Those preconditions however, have not been met two years into the process. To date, there has been no effort from ISO management to make sure that national member bodies are fulfilling their responsibilities to ensure full participation of affected stakeholders. Rather domestic stakeholder involvement is being considered by ISO as a "national sovereignty" issue, and many countries remain unwilling to provide information (ibid).

The complaints did however elicit a proposal by one of the task groups to establish a Social Responsibility Trust Fund to help support participation by under-represented stakeholders (ibid). The standard is to be designated on completion as ISO 26000, and is to be applicable to both the public and private sector. It is a guidance standard, stressing better performance, but consisting of guidelines, not requirements, it is not a management system, and not capable of certification (Bart Slob and Gerard Oonk, *The ISO Working Group on Social Responsibility: Developing the Future ISO SR 26000 Standard* (Amsterdam: SOMO/Centre for Research on Multinational Corporations, 2007), p. 2). In its current state, the initiative is subject of several criticisms from NGOs. Firstly, the changed emphasis on expanding the standard to be applicable to all public and private sector organisations has weakened the concept of *corporate* social responsibility. It is these activities not those of NGOs, universities or churches for example, that are the focus; consequently, the working group has not addressed the real problem. Secondly, by its voluntary nature, the standard is attractive to industry and government since they have little appetite for a regulatory framework for CSR. The interest of civil society organisations, however, is for binding international arrangements (Slob and Oonk, *The ISO Working Group on Social Responsibility*, p. 6). The second element is teased out in more detail by one NGO:

ISO 26000 is intended to be a guidance document, and thus is not supposed contain any mandatory requirements in the text. However, in order for this standard to become meaningful, it will likely have to provide information on what are considered to be the minimum requirements for the organizations to be "socially responsible"...Without having a clear framework on what constitutes baseline expectations regarding social responsibility, organizations could pick and choose cursory options from the standard and deem it sufficient to be social responsible

(<http://inni.pacinst.org/inni/CSR.htm#SocialResponsibility>, accessed 02/05/07).

After a working group process in Vienna in November 2007, after which civil society engagement was predicted to be less effective on the drafting of text, the standard is to be voted on, requiring the full and formal backing of liaison member organisations. The release of the standard is expected to be late in 2009 (Slob and Oonk, *The ISO Working Group on Social Responsibility*, p. 7).

⁵⁵ Elliott, *Forest Certification*, p. 14.

⁵⁶ Elliott, *Forest Certification*, p. 16.

⁵⁷ Eliana Acuña, *The ECL Space Project. Learning from Social and Environmental Schemes for the ECL Space: ISO 14401 Case Study* (Pully: Pi Environmental Consulting, 2004), annex 4, p. 40, citing ISO, *The ISO Survey of ISO 9000 and ISO 14001 Certificates, Twelfth cycle, 2002*. Pulp, paper and paper products and wood and wood products are counted separately, with 860 and 363 certificates awarded respectively, placing the two sectors 14th and 24th out of 39 recognised sectors, or 11th, if counted together.

⁵⁸ *Articles and News*, “3rd Meeting of ISO/TC 207 in Oslo, Norway” (August, 1995), pp. 6-7.

⁵⁹ *Articles and News*, “Environment – ISO/TC 207 Considers Industry’s Needs”, (August, 1995), p. 3.

⁶⁰ Elliott, *Forest Certification*, p. 16.

⁶¹ Ibid.

⁶² Hauselmann, *ISO inside out*, p. 11.

⁶³ Environmental NGOs objecting to clear-cut forest management and the use of chlorine bleaching in Canada had secured the cancellation of international pulp orders and were heavily criticising the CSA standard, whilst both domestically and internationally the FSC was gaining ground as a forest certification programme (Elliott, *Forest Certification*, pp. 147-148).

⁶⁴ Elliott, *Forest Certification*, pp. 149-156.

⁶⁵ Hauselmann, *ISO inside out*, p. 12.

⁶⁶ *Articles and News*, “3rd Meeting”, p. 7.

⁶⁷ Elliott, *Forest Certification*, p. 16.

⁶⁸ Ibid.

⁶⁹ *Articles and News*, “3rd Meeting”, p. 7., p. 7.

⁷⁰ *Articles and News*, “Environment”, p. 3.

⁷¹ Elliott, *Forest Certification*, p. 16.

⁷² Hauselmann, *ISO inside out*, p. 13.

⁷³ Ibid.

⁷⁴ *Articles and News*, “Environment”, p. 3.

⁷⁵ Ibid.

⁷⁶ Hauselmann, *ISO inside out*, p. 15.

⁷⁷ Hauselmann, *ISO inside out*, p. 12.

⁷⁸ *Articles and News*, “Environment”, p. 3.

⁷⁹ Dick Hortensius, “ISO 14000 and Forestry Management: ISO Develops ‘Bridging Document’” *ISO 9000 + ISO 14000 News* 4 (1999), pp. 11-20 at pp. 17 and 20. 14061 is described as:

A link between the management system approach of ISO 14001 and the range of forest policy and forest management performance objectives, including principles, criteria and indicators of SFM, that a forestry organization can consider...

ISO/TR 14061 should be used in conjunction with ISO 14001 and/or ISO 14004. It is up to the forestry organizations to decide whether they want to meet externally developed performance objectives such as the sets of SFM...If so the technical report can be of help to organizations in the joint implementation and sustainable forest management...

ISO/TR 14061 hopefully will support further application of ISO 14001 in the forestry sector and thereby contribute to the implementation of good forest management with a view to conserving one of the most precious resources of our earth (ibid).

⁸⁰ Hortensius, "ISO 14000 and Forestry Management", p. 17.

⁸¹ Hauselmann, *ISO inside out*, p. 13.

⁸² Hortensius, "ISO 14000 and Forestry Management", p. 13. He lists the International Tropical Timber Organization, Pan-European (Helsinki) Process, Montréal Process, Tarapoto Proposal, Dry Zone Africa Initiative, North Africa and Near east Initiative, Central American Initiative of Leparterique and the African Timber Organization Initiative.

⁸³ Ibid.

⁸⁴ Ibid.

⁸⁵ Erik M. Lammerts van Beuren and Esther M. Blom, *Hierarchical Framework For The Formulation Of Sustainable Forest Management Standards* (Leiden: The Tropenbos Foundation, 1997), p. 7.

⁸⁶ Van Beuren and Blom, *Hierarchical Framework*, p. 15. The general problem here seems to be the level at which data is aggregated and reported.

⁸⁷ Van Beuren and Blom, *Hierarchical Framework*, p. 17. Hauselmann comments about the bridging concept (*ISO inside out*, p. 13), concluding that:

The result would be a range of claims about 'sustainable forest management' that would be very confusing in the market place...In fact, given the 14001 framework, this bridging document has the potential to allow companies to claim SFM without specifying what performance levels are required. A case could be made that this proposal is indeed a way to bring back the CSA proposal that was withdrawn in 1995.

⁸⁸ Hauselmann, *ISO inside out*, p. 13.

⁸⁹ Ibid.

⁹⁰ Elliott, *Forest Certification*, p. 14. ISO recognises three types of environmental label. A Type I label refers to third party, multiple-issue eco-labels (Elliott, *Forest Certification*, p. 14). Type I labels have been characterised as covering the environmental impacts of their products within their whole life cycle, from extraction to production, use and disposal (Hauselmann, *ISO inside out*, p. 8). ISO 14021 covers self-declared environmental claims, or Type II environmental labelling, and was published in 1999 (*Articles and News*, "Communiqué from the 7th Annual TC 207 Plenary", ISO/TC 207 N357 1999-06-06 (July, 1999) p. 5. This can only be inferred from the document (the FDIS ballot closed in July of that year); however, it is referred to as published in ISO/TC 207 "Communiqué 8th Annual Meeting of ISO/TC 207 on Environmental Management", N429 REV 01:2000-07-10 (June, 2000), p. 3). These labels generally cover claims made by companies about the status of a given product, for example, whether it is recyclable (Hauselmann, *ISO inside out*, p. 8). ISO 14025 on Type III labels was published in 2000 as a technical report, the status of which

was to be reviewed in 2003 (TC 207, “Communiqué from the 7th Annual TC 207 Plenary”, p. 6. A technical report is not intended to be, or to become, an International Standard, but rather contains information from a report or survey, for example, intended to represent “state of the art” knowledge and does not have a predefined lifetime (ISO, *MY ISO Job*, p. 14). However, ISO/TC 207, “Communiqué 13th Annual Meeting of ISO/TC 207 on Environmental Management”, CAG N386, (September, 2005), p. 6 implies that that the technical report is to be published as a standard, ISO 14025, in the near future (as at 2005). Type III labels cover those environmental declarations, which act as environmental report cards (Elliott, *Forest Certification*, p. 14). Although they are third party they do not require any performance thresholds, but rate a product’s different environmental effects, thus assisting consumers in choosing a product based on its given attributes (Hauselmann, *ISO inside out*, p. 8).

⁹¹ Hauselmann, *ISO inside out*, p. 9.

⁹² Elliott, *Forest Certification*, p. 14.

⁹³ Hauselmann, *ISO inside out*, p. 8.

⁹⁴ Elliott, *Forest Certification*, p. 14.

⁹⁵ Elliott, *Forest Certification*, p. 157.

⁹⁶ Hauselmann, *ISO inside out*, p. 8.

⁹⁷ Ibid.

⁹⁸ Oberthür et al, *Participation of Non-governmental Organisations*, p. 165.

⁹⁹ Morikawa and Morrison, *Who Develops ISO Standards*, pp. 14-15. The ISO Working Group on Social Responsibility has slightly changed these categories so that they represent industry, government, consumer organisations, labour, NGO, and service, support, research and others (SSRO - Slob and Oonk, *The ISO Working Group on Social Responsibility*, p. 2).

¹⁰⁰ ISO, *My ISO Job*, p. 7.

¹⁰¹ Ibid.

¹⁰² ISO, *My ISO Job*, p. 10.

¹⁰³ ISO, “ISO’s Membership Rises to 150 Countries”, media release (20/04/05), <http://www.iso.org/iso/pressrelease.htm?refid=ref955>, accessed 19/06/08.

¹⁰⁴ ISO, *My ISO Job*, p. 7.

¹⁰⁵ Ibid.

¹⁰⁶ ISO, *My ISO Job*, p. 8.

¹⁰⁷ ISO, *My ISO Job*, p. 10.

¹⁰⁸ ISO, *My ISO Job*, p. 7.

¹⁰⁹ ISO, *My ISO Job*, p. 8.

¹¹⁰ ISO, *My ISO Job*, p. 10.

¹¹¹ ISO, *My ISO Job*, p. 8.

¹¹² Oberthür et al, *Participation of Non-governmental Organisations*, pp. 167-168.

¹¹³ Acuña, *The ECL Space Project*, p. 13.

¹¹⁴ Oberthür et al, *Participation of Non-governmental Organisations*, p. 79.

¹¹⁵ Oberthür et al, *Participation of Non-governmental Organisations*, p. 170, elaborating Section 1.17.2 ISO/IEC Directives, Part 1 (see also footnote 48).

¹¹⁶ Oberthür et al, *Participation of Non-governmental Organisations*, p. 172, citing Section 1.17.4, ISO/IEC Directives, Part 1.

¹¹⁷ Oberthür et al, *Participation of Non-governmental Organisations*, p. 170, citing Section 1.17.3, ISO/IEC Directives, Part 1.

¹¹⁸ Oberthür et al, *Participation of Non-governmental Organisations*, p. 171, citing Section 1.17 ISO/IEC Directives, Supplement.

¹¹⁹ ISO, "Who can join ISO", <http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 02/05/07.

¹²⁰ Ibid.

¹²¹ ISO, "Overview of the ISO system",

<http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 24/04/07. This designation is not undisputed in the literature. Commentators consider ISO variously as a nongovernmental, mixed private, or hybrid public-private regime (Matthew Potoski and Aseem Prakash, "Regulatory Convergence in Nongovernmental Regimes", p. 885, Jennifer Clapp, "The Privatization of Global Environmental Governance: ISO 14000 and the Developing World", *Global Governance* 4 (3) (1998), pp. 23-34 at p. 295, Falkner, "Private Environmental Governance", pp. 76-77). Oberthür et al designate ISO as an international economic institution, reserving the use of NGO specifically for those non-governmental organisations participating within it (Oberthür et al, *Participation of Non-governmental Organisations*, pp. 78 and 31).

¹²² <http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 24/04/07

¹²³ ISO, "How the ISO system is managed",

<http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 02/05/07.

¹²⁴ Oberthür et al, *Participation of Non-governmental Organisations*, p. 165, citing Article 6.7 ISO Statutes.

¹²⁵ Oberthür et al, *Participation of Non-governmental Organisations*, p. 166, citing Article 6.1 ISO Statutes.

¹²⁶ Oberthür et al, *Participation of Non-governmental Organisations*, p. 166, citing Articles 6.1 and 6.6, ISO Statutes.

¹²⁷ Oberthür et al, *Participation of Non-governmental Organisations*, p. 166, citing Article 6.5 ISO Statutes

¹²⁸ Oberthür et al, *Participation of Non-governmental Organisations*, p. 166, citing Article 4 ISO Statutes and Clause 2.4 ISO Rules of Procedure.

¹²⁹ ISO, *My ISO Job*, p. 8.

¹³⁰ <http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 02/05/07.

¹³¹ Oberthür et al, *Participation of Non-governmental Organisations*, p. 166.

¹³² Oberthür et al, *Participation of Non-governmental Organisations*, p. 165, citing Article 7.6 ISO Statutes.

¹³³ ISO, *My ISO Job*, p. 8. Conformity assessment covers both supplier and manufacturer declarations (first party conformity assessment); and second parties: further on in the supply chain a supermarket, for example, undertakes some form of assessment of conformity of its suppliers as to whether or not they meet a pre-defined requirement and standard. Third-party conformity assessment uses certification. Certification can happen for a product, or management systems. More recently it is used for processors, and has extended to such areas as personnel qualifications. There are two parts to making sure there is a confidence in the conformity system, accreditation and peer assessment. These two areas work either alone or in combination, adding a second level of confidence, or check, to the conformity assessment system, by ensuring the checkers know their roles; this is essentially a “check of the checkers.” In the past the five years years ISO has updated some 20 documents covering its international rules, standards and guides in the area of conformity assessment. These are the international documents, which are accepted and recognised by the World Trade Organization and other multinational government-to-government relationships (Personal interview, 30/06/05).

¹³⁴ <http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 02/05/07.

¹³⁵ ISO, “ISO’s structure” <http://www.iso.org/iso/structure>, accessed 18/06/08.

¹³⁶ Ibid; personal interview #1, 30/06/05.

¹³⁷ ISO, *My ISO Job*, p. 9.

¹³⁸ Oberthür et al, *Participation of Non-governmental Organisations*, p. 166, citing Article 8.1 ISO Statutes.

¹³⁹ ISO, *My ISO Job*, p. 9.

¹⁴⁰ Oberthür et al, *Participation of Non-governmental Organisations*, p. 165, citing sections 1.6 and 1.11, ISO/IEC Directives, Part 1.

¹⁴¹ ISO, *My ISO Job*, p. 9.

¹⁴² Acuña, *The ECL Space Project*, p. 20.

¹⁴³ ISO, *My ISO Job*, p. 9.

¹⁴⁴ ISO, *My ISO Job*, p. 16.

¹⁴⁵ ISO, *My ISO Job*, p. 7.

¹⁴⁶ Personal interview, 30/06/05.

¹⁴⁷ Oberthür et al, *Participation of Non-governmental Organisations*, p. 167, citing Clause 5.5 ISO Rules of Procedure and Article 6.1 ISO Statutes.

¹⁴⁸ Oberthür et al, *Participation of Non-governmental Organisations*, pp. 167-168.

¹⁴⁹ ISO, *My ISO Job*, p. 3; Oberthür et al, *Participation of Non-governmental Organisations*, p. 166.

¹⁵⁰ ISO, *My ISO Job*, p. 11. Firstly, an ISO member body must be approached by an industry or business sector that feels the need for a standard, and the member body must propose the standard as a new work item. These two stages are referred to as the preliminary and proposal stages, and the written products generated at these points are known as a preliminary work item, or project (PWI), and a new proposal for a work item (NP), respectively (ISO, *My ISO Job*, p. 11). To move forward at all, ISO as a whole must be persuaded that there is a clear market requirement for a new standard (ISO, “How ISO decides what standards are developed”, <http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 02/05/07). ISO member bodies within an appropriate technical committee or subcommittee must then formally agree by ballot to the need for an international standard (ISO, “Stages in the Development of International Standards” <http://www.TC207.org>, accessed 10/05/07). Approval occurs if a majority of P-members of the relevant committee approve and at least five of them agree to participate actively (Acuña, *The ECL Space Project*, p. 22). A project team leader is appointed to be responsible for the work item (ISO, “Stages in the Development of International Standards” <http://www.TC207.org>, accessed 10/05/07).

A working group of experts is then established by the technical committee or subcommittee, in which the project leader acts as convener. Working drafts (WD) are produced until the group is satisfied that the best technical solution to the problem at hand has been considered. The group then refers the draft to the parent committee for what is referred to as the consensus-building period (ibid.). The O- and P-members of the technical committee or relevant subcommittee, discuss the working drafts until consensus is reached, and a committee draft (CD) is approved. Where there is doubt over consensus, approval is by a majority of two thirds of the technical committee or subcommittee (Acuña, *The ECL Space Project*, pp. 21-22).

Once consensus is achieved the text is finalised and enters the enquiry stage as a Draft International Standard (DIS - <http://www.TC207.org>, accessed 10/05/07). According to the TC 207 Business Plan, it is at this stage (referred to there as the technical enquiry phase) that public comment occurs, although how this takes place is not specified. During this stage the ISO Central Secretariat circulates the DIS to all ISO members, who have five months to comment and vote (ISO/TC 207, “Business Plan ISO/TC 207 Environmental Management”, N726R0/CAG N 376R3 Version 3 (June, 2005) lines 13-14, p. 2). A ballot of all P-members involved in the technical committee also occurs, assent being required from two-thirds for approval (Eliana Acuña, *The ECL Space Project*, p. 2). However, if the DIS receives 100% approval it may proceed to publication once comments have been received and dealt with (ISO, *My ISO Job*, p. 12).

Otherwise, a ballot of all ISO P-members takes place, 75% of those who vote being required for approval (Morikawa and Morrison, *Who Develops ISO Standards*, p. 7). If these approval criteria are not met the text returns to the technical committee or subcommittee for further work and the revised document is sent back out again for voting and comment (ISO, “Stages in the development of International Standards” <http://www.TC207.org>, accessed 10/05/07).

The draft standard then enters what is referred to as the approval stage, and the ensuing Final Draft International Standard (FDIS) is circulated by the Central Secretariat to all ISO member bodies over a two-month period for a yes/no vote (ibid). A report covering the voting on the DIS and how any comments received were addressed is also circulated (ISO, *My ISO Job*, p. 12). Any technical comments received during this period are not adopted, but registered for consideration in the future iteration of the standard. The voting arrangements are the same as during the DIS. If more than a quarter of the total votes are negative, the draft standard goes back to the originating committee for reconsideration, and the technical comments accompanying the negative vote are addressed. Otherwise, the document enters the publication stage when only minor editorial changes may be made and the ISO Central Secretariat finally publishes it as an international standard. All such standards are subject to review three years after publication, and after the first review, every five years. A simple majority of the P-members of the technical committee or subcommittee determines if the standard should be withdrawn, confirmed or revised (ISO, “Stages in the Development of International Standards” <http://www.TC207.org>, accessed 10/05/07).

¹⁵¹ Oberthür et al, *Participation of Non-governmental Organisations*, p. 173.

¹⁵² Tibor and Feldman, *ISO 14000*, p. 37.

¹⁵³ <http://www.TC207.org/Structure.asp>, accessed 18/06/08.

¹⁵⁴ Tibor and Feldman, *ISO 14000*, p. 38. The standard-related literature varies in its use of language regarding the certification processes associated with ISO 14001. Elliott explains this by way of the Canadian context where standardization regulations apply the term registration when referring to a management system, and certification to a product. This goes back again to the systems versus performance debate, but he notes interestingly that although being a systems-based standard, Canadian industry preferred the term certification (Elliott, *Forest Certification*, p. 150 and footnote 40. TC 207 related documentation is at times confused, in one instance referring to ISO 14001 as “the single world-wide EMS standard for self-declaration and certification/registration purposes” (*Articles and News*, “Environment – ISO/TC 207 Considers Industry’s Needs”, p. 3, alluding to events occurring subsequently and as late as 1998).

¹⁵⁵ Tibor and Feldman, *ISO 14000*, p. 38.

¹⁵⁶ Parto, *Aiming Low*, p. 183.

¹⁵⁷ Parto, *Aiming Low*, p. 185.

¹⁵⁸ ISO, *My ISO Job*, p. 2.

¹⁵⁹ Both acknowledge ISO, *ISO 14001 Environmental Management Systems – Specifications with Guidance for Use* (Geneva: ISO, 1996).

¹⁶⁰ Tibor and Feldman, *ISO 14000*, p. 50.

¹⁶¹ SC2 generated 1410 (environmental auditing - general principles), 14011 (auditing procedures) and 14012 (qualification criteria for auditors) (Tibor and Feldman, *ISO 14000*, p. 37). These were released in 1996 (Parto, *Aiming Low*, p. 183). A further standard 14015 (environmental assessments of sites and organizations) was published in 2001 (ECOSOC, “Economic Commission for Europe, Committee for Trade, Industry and Enterprise Development, Working party on Technical Harmonization and Standardization Policies, Twelfth Session, 28-30 October 2002, Item 8(b) of the Provisional Agenda, Environmental Management Standards, Summary of the Main Results of the Tenth Annual Meeting of ISO/TC 207”, Document TRADE/WP.6/2002/12 (October, 2002), p. 3). SC3 has had a number of associated working groups and standards associated with environmental labelling. ISO 14020 (goals and principles of all environmental labelling) was released in 1998 (Parto, *Aiming Low*, p. 183).

SC3 addressed three types of environmental labelling recognised in ISO. ISO 14024 covers Type I labels, and was published in 1999 (TC 207, “Communiqué from the 7th Annual TC 207 Plenary in Seoul, Korea”, *Articles and News* (July, 1999), p. 6). A Type I label refers to third party, multiple-issue eco-labels (Elliott, *Forest Certification*, p. 14). Type I labels have been characterised as covering the environmental impacts of their products within their whole life cycle, from extraction to production, use and disposal (Hauselmann, *ISO inside out*, p. 8). ISO 14021 covers self-declared environmental claims, or Type II environmental labelling, and was published in 1999 (*Articles and News*, “Communiqué from the 7th Annual TC 207 Plenary”, p. 5. This can only be inferred from the document (the FDIS ballot closed in July of that year); however, it is referred to as published in ISO/TC 207, “Communiqué 8th Annual Meeting of ISO/TC 207 on Environmental Management”, p. 3). These labels generally cover claims made by companies about the status of a given product, for example, whether it is recyclable (Hauselmann, *ISO inside out*, p. 8). ISO 14025 on Type III labels was published in 2000 as a technical report, and reviewed in 2003 (*Articles and News*, “Communiqué from the 7th Annual TC 207 Plenary”, p. 6. A technical report is not intended to be, or to become, an International Standard, but rather contains information from a report or survey, for example, intended to represent “state of the art” knowledge and does not have a predefined lifetime (ISO, *MY ISO Job*, p. 14). However, ISO/TC 207, “Communiqué 13th Annual Meeting of ISO/TC 207 on Environmental Management”, p. 6, implies that that the technical report is to be published as a standard, ISO 14025, in the near future (as at 2005). Type III labels cover those environmental declarations, which act as environmental report cards (Elliott, *Forest Certification*, p. 14). Although they are third party they do not require any performance thresholds, but rate a product’s different environmental effects, thus assisting consumers in choosing a product based on its given attributes (Hauselmann, *ISO inside out*, p. 8). SC3 and SC5 communicated actively with each other regarding the life cycle aspects of 14025

(*Articles and News*, “Communiqué from the 7th Annual TC 207 Plenary”, p. 7). SC3 created a working group (WG4) to address these issues, and to begin development of a working draft (ECOSOC document TRADE/WP.6/2002/12, p. 4). In 2005 SC3 reconfirmed the general principles of ISO 14020 and commenced a process for the development of a strategic plan to review all standards under the committee, commencing in 2008.

SC4, the subcommittee on environmental performance evaluation generated only one standard, ISO 14031, published in 1999 (*Articles and News*, “Communiqué from the 7th Annual TC 207 Plenary”, p. 8). This standard is a process guide for measuring, analysing, assessing and describing the environmental performance of an organization against the agreed targets contained its is environmental policy objectives (Parto, *Aiming Low*, p. 183). An associated technical report, 14032 (environmental management - examples of environmental performance evaluation) was also scheduled for release in 1999 (*Articles and News*, “Communiqué from the 7th Annual TC 207 Plenary”, p. 8). However, it was decided not to publish a formal interpretation mechanism with the standard, but rather to refer interested parties to their ISO member body for an unofficial response. It is worth noting that one NGO stakeholder interviewed regarding ISO considered 14031 to be a poor standard, and consequently not adopted by industry. They pointed in contrast to the wide uptake of a competitor, the Global Reporting Initiative, which they saw as “the international deliverable” on environmental performance reporting. The difference as they saw it was that:

The Global Reporting Initiative contains a close set of requirements. It does not just mention a number of different indicators as ISO 14031 does, and say, ‘pick what you like’...whoever follows the GRI guidelines has to follow certain rules, where the user of ISO 14031 just has to show that he has considered everything” (Personal interview, 04/09/07).

A number of standards relating to life cycle assessment have been produced by SC5. The first, ISO 14040, covers the general principles and guidelines relevant to life cycle analysis (Tibor and Fieldman, *ISO 14000*, p. 37). It was released in 1997 (Parto, *Aiming Low*, p. 183). In 2002 it was confirmed for a further period of five years (ECOSOC document TRADE/WP.6/2002/12, p. 5). ISO 14041, covering goal and scope definition and inventory analysis in life cycle assessment was finalised in 1998 (ISO/TC 207 “Communiqué 6th Annual Meeting of ISO/TC 207 on Environmental Management”, N283 (June, 1998), p. 4). ISO 14042, life cycle impact assessment, and ISO 14043, life cycle interpretation, were finalised in 1999 (TC 207, “Communiqué from the 7th Annual TC 207 Plenary”, p. 11). A technical report, ISO TR 14049 providing illustrative examples on how to apply ISO 14041 was also finalised in the same year (ibid). In 2002 ISO TS 14048, covering the format for data documentation, was released. Originally intended as an International Standard, it was published as a technical specification (ECOSOC document TRADE/WP.6/2002/12, p. 5). A technical specification sits below and international standard and above a technical report as a work still under technical development, or where there is a future for it as an International Standard, but lacking the “immediate possibility of agreement” (ISO, *My ISO Job*, p. 14). In the same year, a further technical report, ISO TR 14047, relating examples for the application of ISO 14042, was sent to the Central Secretariat for publication (ECOSOC document

TRADE/WP.6/2002/12, p. 5). At its fifteenth meeting in September 2005, SC5 commenced the process of revising its four core standards on life cycle assessment (ISO 14040, 14041, 14042 and 14043) and looked at a proposal for revising ISO TS 14048 (ISO/TC 207/CAG N386, p. 7).

¹⁶² Arts, “Non-state Actors in Global Environmental Governance”, p. 193.

¹⁶³ Mathias Koenig-Archibugi, “Introduction: Institutional Diversity in Global Governance”, in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi and Michael Zürn (London: Palgrave Macmillan, 2006) pp. 1-30 at pp. 15-16. In the case of ISO the independent agencies are its member bodies, which have a large role in the organization’s primary function of standard setting.

¹⁶⁴ Arts, “Non-state Actors in Global Environmental Governance”, p. 191. Arts assesses ISO by its degree of “publicness”, referring to its public/private composition. Potoski and Prakash argue that such a distinction can be overblown, given that what they refer to as nongovernmental regimes still operate in the shadow of public law, and that governments still influence them directly and indirectly, particularly so in the case of the development of 14001 (“Regulatory Convergence in Nongovernmental Regimes”, p. 888).

¹⁶⁵ Arts, “Non-state Actors in Global Environmental Governance”, pp. 191-192.

¹⁶⁶ Potoski and Prakash, “Regulatory Convergence in Nongovernmental Regimes”, p. 888, and Glück et al., “Changes in the Governance of Forest Resources”, p. 61 (citing Fritz Scharpf, *Governing in Europe: Effective and Democratic?* (Oxford: Oxford University Press, 1999)).

¹⁶⁷ Qualified majority is a term used to mean “more than simple majority: typically two thirds” (Rod Hague and Martin Harrop, *Comparative Government and Politics An Introduction*, seventh edition (Basingstoke and London: Palgrave Macmillan, 2007) p. 47).

¹⁶⁸ Glück et al., “Changes in the Governance of Forest Resources”, p. 61.

¹⁶⁹ Morikawa and Morrison, *Who Develops ISO Standards*, p. 17.

¹⁷⁰ Ibid.

¹⁷¹ Eliana Acuña, *The ECL Space Project* p. 17 citing J. Morrison, K. Kao Cushing, Z. Day and J. Speir, *Managing a Better Environment: Opportunities and Obstacles for ISO 14001 in Public Policy and Commerce* (Oakland: Pacific Institute, 2000).

¹⁷² Eliana Acuña, *The ECL Space Project*. p. 3.

¹⁷³ Morikawa and Morrison, *Who Develops ISO Standards*, pp. 17-18.

¹⁷⁴ Morikawa and Morrison, *Who Develops ISO Standards*, pp. 12-13.

¹⁷⁵ ISO, *My ISO Job*, p. 5.

¹⁷⁶ ISO, *My ISO Job*, p. 10.

¹⁷⁷ Raines, “Perceptions of Legitimacy and Efficacy,” p. 48.

¹⁷⁸ Raines, “Perceptions of Legitimacy and Efficacy,” p. 54.

¹⁷⁹ Raines, “Perceptions of Legitimacy and Efficacy,” p. 68.

-
- ¹⁸⁰ Raines, “Perceptions of Legitimacy and Efficacy,” p. 71.
- ¹⁸¹ Ibid.
- ¹⁸² Raines, “Perceptions of Legitimacy and Efficacy,” p. 62.
- ¹⁸³ Raines, “Perceptions of Legitimacy and Efficacy,” pp. 47-48.
- ¹⁸⁴ Brad Edwards, Jill Gravender, Annette Killmer, Genia Schenke and Mel Willis, *The Effectiveness of ISO 14001 in the United States* (Santa Barbara: Donald Bren School of Environmental Science & Management, University of California, 1999), p. 153 and p. 164.
- ¹⁸⁵ Personal interview, 15/07/05, personal interview, 15/09/06
- ¹⁸⁶ Personal interview, 05/07/05, personal interview #2, 18/07/05, personal interview #1, 04/09/06. One stakeholder argued that this focus on governance reform might be to the detriment of NGOs’ ability to put sufficient time and energy into standard setting itself (personal interview 08/07/05).
- ¹⁸⁷ Personal interview #1, 04/09/06.
- ¹⁸⁸ Personal interview #1, 30/06/05.
- ¹⁸⁹ Personal interview 08/07/05.
- ¹⁹⁰ Personal interview #2, 30/06/05.
- ¹⁹¹ Personal interview 08/07/05.
- ¹⁹² Personal interview, 08/07/05.
- ¹⁹³ Personal interview #1, 30/06/05.
- ¹⁹⁴ Personal interview 08/07/05, Personal interview #1, 30/06/05.
- ¹⁹⁵ Personal interview, 08/07/05.
- ¹⁹⁶ Personal interview #1, 30/06/05.
- ¹⁹⁷ Personal interview #1, 04/09/06, referring to SC 5 (life cycle analysis) of TC207.
- ¹⁹⁸ Personal interview, 08/07/05.
- ¹⁹⁹ Morikawa and Morison, *Who Develops ISO Standards*, p. 18.
- ²⁰⁰ Raines, “Perceptions of Legitimacy and Efficacy,” p. 72.
- ²⁰¹ Raines, “Perceptions of Legitimacy and Efficacy,” p. 71.
- ²⁰² Personal interview, 08/07/05.
- ²⁰³ Personal interview #1, 30/06/05.
- ²⁰⁴ Ibid.
- ²⁰⁵ Ibid.
- ²⁰⁶ Personal interview 08/07/05.
- ²⁰⁷ Personal interview #1 30/6/05, personal interview 09/09/05, personal interview 12/09/05, Personal interview #1, 04/09/06. The change in emphasis away from national delegations to direct stakeholder participation within the working group was presented as having profound impacts on

ISO's governance. Throughout the working group meetings special meetings also took place where all interests met together to discuss matters such as nominating representatives to the Chairman's Advisory Group, for example. It was argued that the governance of the working group was therefore partly established by the representatives themselves. The leadership within the various groups also was also very carefully monitored to ensure the division of leadership positions amongst the stakeholder categories was balanced on that level as well. Draft papers had been developed that pointed out quite explicitly how national mirror committees should ensure the most representative people for various stakeholder categories. Giving voting rights to the liaison groups was also under consideration. These initiatives might serve as an example for other ISO committees to take on and look at their own governance structures (personal interview, 08/07/05). This reorganisation was seen by some as crucial to any consideration regarding changes in procedures, because it complemented the national delegation principle, which so often filtered away minority -- particularly NGO -- positions (Personal interview #1, 04/09/06).

²⁰⁸ Personal interview, 08/07/05.

²⁰⁹ Personal interview #1, 04/09/06.

²¹⁰ Personal interview #1, 04/09/06.

²¹¹ Personal interview #1, 30/06/05, Personal interview #1, 04/09/06 (referring specifically to Germany and the UK). Several comments were made regarding working group on social responsibility. Significantly, it was stressed that it did not follow the national delegation principle (Personal interview #1, 04/09/06). As a result, it was trying to engage stakeholders on a more sector-by-sector basis rather than nation by nation (Personal interview #2, 30/06/05). Six interests were included from labour, industry, government, consumers and NGOs, with room for one other - such as academia (Personal interview #1, 04/09/06, Personal interview #2, 30/06/05, Personal interview, 08/07/05). In this structure, each group tried to form its own position based on its sectoral interest (Personal interview #2, 30/06/05). From each of these six stakeholder groups, one person attended the meetings, could speak on behalf of their constituencies, and was not obliged to represent a national point of view (Personal interview #1, 04/09/06). This had been replicated at the national mirror committee level by some countries (Personal interview, 08/07/05). Another interviewee was dismissive of the initiative, however. Despite the many recommendations to improve its participatory mechanisms, from they believed it would ultimately perpetuate the traditional ISO structure (personal interview 12/07/05).

²¹² Personal interview 12/07/05.

²¹³ Personal interview #1, 04/09/06 and Personal interview #2, 30/06/05.

²¹⁴ Personal interview #1, 04/09/06.

²¹⁵ Personal interview #1, 05/07/05.

²¹⁶ Personal interview #2, 18/07/05. One participant in ISO's working group on social responsibility felt that it was eminently possible to place obligations on the chairpersons within

that process to ensure that stakeholder positions were balanced. They indicated that the working group had produced a working paper that contained a number of procedural requirements in this direction for strengthening the position of NGOs as a sector (Personal interview #1, 04/09/06).

²¹⁷ Personal interview #1, 04/09/06.

²¹⁸ Personal interview #1, 30/06/05, Personal interview #2, 18/07/05 and Personal interview #1, 04/09/06.

²¹⁹ Personal interview #2, 30/06/05, personal interview, 08/07/05, Personal interview #1, 04/09/06, personal interview, 12/07/05.

²²⁰ Personal interview #1, 04/09/06, personal interview #2, 30/06/05.

²²¹ Personal interview #2, 30/06/05.

²²² Personal interview 12/07/05.

²²³ Personal interview #1, 04/09/06.

²²⁴ Personal interview #2, 30/06/05.

²²⁵ Personal interview 15/07/05.

²²⁶ Personal interview 09/09/05.

²²⁷ Morikawa and Morrison, *Who Develops ISO Standards*, pp. 12-13.

²²⁸ Personal interview #1, 30/06/05.

²²⁹ Ibid; Mike Smith, ISO Central Secretariat, personal communication, 01/11/07.

²³⁰ ISO, "How the ISO system is financed",
<http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 02/05/07.

²³¹ ISO, *Statutes and Rules of Procedure*, fourteenth edition (Geneva: ISO, 2000) Clause 3.8, p. 33.

²³² Morikawa and Morrison, *Who Develops ISO Standards*, pp. 12-13.

²³³ Personal interview 08/07/05, personal interview #1, 30/06/05, personal interview #2, 30/06/05, personal interviews #1 and #2, 18/07/05, Personal interview #1, 04/09/06, personal interview 15/07/05.

²³⁴ Personal interview #1, 30/06/05.

²³⁵ Personal interview #2, 30/06/05.

²³⁶ Personal interview #2, 30/06/05.

²³⁷ Personal interview #2, 30/06/05.

²³⁸ Ibid.

²³⁹ Ibid.

²⁴⁰ Personal interview #2, 18/07/05.

²⁴¹ Personal interview, 08/07/05.

²⁴² Personal interview, 08/07/05, Personal interview #2, 30/06/05.

²⁴³ Personal interview #1, 30/06/05.

²⁴⁴ Personal interview #1, 30/06/05. In New Zealand and the US for example it was quite common to charge people to participate in standards-related mirror committees (personal interview #2, 30/06/05). This was the usual practice for European standards organisations (personal interview #1, 04/09/06). Participants also funded themselves in Netherlands, but with the important exception that NGOs that had difficulties participating, or were unwilling or unable to pay, were subsidised by other stakeholders, including industry, government and others. In the case of the Dutch mirror committee associated with the creation of TR 14061 four sectors (the forest industry, the timber and trade-related industries and government) funded environmental NGO participation because they considered their involvement important (personal interview, 08/07/05).

²⁴⁵ Personal interview #1, 30/06/05.

²⁴⁶ Personal interview #2, 18/07/05.

²⁴⁷ Personal interview #2, 30/06/05.

²⁴⁸ Personal interview #2, 18/07/05. Once again, the working group on social responsibility had proved to be an exception. An interviewee recalled one instance, where participants who required funds were allocated resources by the national government to ensure their constituency was represented, but any further sectoral delegates had to fund themselves, allowing for both sectoral inclusion and a range of internal views (personal interview, 08/07/05).

²⁴⁹ This interviewee was particularly critical of the resource wastage and inefficiencies within the organisation, which they saw as impacting on both participation and its decision making processes. A major weakness identified was ISO's lack of planning, the working group on social responsibility providing a good example. With no concept on the table, the initial strategic advisory group was unable to agree on anything, including how social responsibility should be defined. This was seen as a poor approach to commencing work involving three or four hundred people, and which led to a lot of resources being wasted because of missing out important concepts at the beginning. It would have been better to have a small group, working first to develop a basic consensus on what the outcome might be and working from that. Instead, the group commenced with no idea as to what the outcome should be, only what it should *not* be - a variant of the ISO 14000 series. This made for a very inefficient process with people constantly reinventing the wheel (Personal interview #1, 04/09/06).

²⁵⁰ ISO, *My ISO Job*, pp. 8-9.

²⁵¹ Morikawa and Morrison, *Who Develops ISO Standards*, p. 17.

²⁵² Oberthür et al, *Participation of Non-governmental Organisations*, p. 169.

²⁵³ ISO/TC 207 N590, p. 2.

²⁵⁴ Raines, "Perceptions of Legitimacy and Efficacy"

²⁵⁵ Rod Rhodes, *Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability* (Buckingham: Open University Press, 1997), p. 48, referring to Chartered Institute

of Public Finance and Accountancy, *Corporate Governance in the Public Services* (London: CIPFA, 1994).

²⁵⁶ Personal interview #2, 18/07/05.

²⁵⁷ Personal interview #1, 04/09/06.

²⁵⁸ Personal interview #1, 30/06/05.

²⁵⁹ Personal interview 08/07/05.

²⁶⁰ Personal interview #2, 18/07/05.

²⁶¹ ISO, *My ISO Job*, p. 5.

²⁶² ISO/TC 207 N726R0, p. 2.

²⁶³ Morikawa and Morisson, *Who Develops ISO Standards*, p. 2.

²⁶⁴ ANEC/EEB, "ANEC/EEB Position Paper on Environmental Management System Standards", (February 2003), p. 1.

²⁶⁵ Acuña, *The ECL Space Project*, p. 28.

²⁶⁶ Edwards et al., *The Effectiveness of ISO 14001*, p. 153 and p. 164.

²⁶⁷ Trevor J. Price, "ISO 14001: Transition to Champion?" *Environmental Quality Management*, Spring (2007), p. 14.

²⁶⁸ Price, "ISO 14001", pp. 14-15.

²⁶⁹ Personal interview #1, 04/09/06. It should be noted however, that this interviewee provided a positive assessment of transparency related aspects of the working group on social responsibility, which made its materials publicly available on the Internet.

²⁷⁰ Personal interview #2, 18/07/05. This anecdote is worth reproducing in full:

When the first ISO 14001 standard was developed, I went to a bridging committee meeting, which was my first direct experience of the standard. There was a representative there who opposed me constantly. I used to address him as "the American gentleman", and once he came and told me he was he was Canadian. I then wondered what country he was representing; obviously not Canada, as this was a purely European event, and only representatives nominated by European Community standard bodies were admitted. The Belgian standards body had nominated him although he was from Exxon. I also usually sat next to an Italian, who was a good fellow, and we eventually became friendly. He came from Exxon too. I did not think that was how experts got nominated, especially two from Exxon. Years later I met the committee secretary and I asked him whether he remembered the two people on the committee from Exxon who opposed me. And he said, "Two? There were four of them" (ibid).

²⁷¹ Personal interview, 08/07/05.

²⁷² Oberthür et al, *Participation of Non-governmental Organisations*, pp. 167-168.

²⁷³ Acuña, *The ECL Space Project*, p. 13. According to Morikawa and Morrison, a national member body choosing to act as an O-member may still vote on early and final drafts of an international standard in discussion (*Who Develops ISO Standards*, p. 7).

²⁷⁴ Morikawa and Morrison, *Who Develops ISO Standards*, p. 7.

²⁷⁵ ISO/TC 207, "Increasing the Effectiveness", p. 5.

-
- ²⁷⁶ Personal interview #1, 04/09/06.
- ²⁷⁷ Personal interview #2, 18/07/05.
- ²⁷⁸ Ibid.
- ²⁷⁹ Personal interview, 09/09/05.
- ²⁸⁰ Personal interview #1, 05/07/05.
- ²⁸¹ Personal interview #1, 30/06/05.
- ²⁸² ISO, Statutes and Rules of Procedure, Clauses 2.4 and 3.9.
- ²⁸³ ISO, Statutes and Rules of Procedure, Clause 5.5.
- ²⁸⁴ Ibid.
- ²⁸⁵ Oberthür et al, *Participation of Non-governmental Organisations*, p. 172, quoting from Section 1.17.5, ISO/IEC Directives, Part 1.
- ²⁸⁶ Oberthür et al, *Participation of Non-governmental Organisations*, p. 172.
- ²⁸⁷ Morikawa and Morrison, *Who Develops ISO Standards*, p. 17.
- ²⁸⁸ Eliana Acuña, *The ECL Space Project*, p. 3.
- ²⁸⁹ ISO, *My ISO Job*, p. 5.
- ²⁹⁰ ISO, *My ISO Job*, p. 3.
- ²⁹¹ Acuña, *The ECL Space Project*, p. 20.
- ²⁹² ISO, *My ISO Job*, p. 16.
- ²⁹³ Elliott, *Forest Certification*, p. 18.
- ²⁹⁴ Paragraph 1.7 ISO/IEC Guide 2 (1991), cited in Elliott, *Forest Certification*, p. 18.
- ²⁹⁵ Elliott, *Forest Certification*, p. 18.
- ²⁹⁶ Hauselmann, *ISO inside out*, p. 10.
- ²⁹⁷ Hauselmann, *ISO inside out*, pp. 10-11.
- ²⁹⁸ Hauselmann, *ISO inside out*, p. 11.
- ²⁹⁹ Ibid.
- ³⁰⁰ Personal interview, 12/07/05. These observations are worth reproducing in full:
- All this trade and this public legitimacy is based on the fact that standards are supposed to be based on consensus; they represent most of what the people want, or most of the interest groups want. Because of that, they are supposed to represent an optimum level, and should avoid conflict. So as much as we can have concern about globalisation and the fact that there are big injustices, there are phenomena there that have given power to stakeholders to direct trade, and that's what we're doing. Now, in order for that trade to be well directed, it is very important that indeed, consensus exists, and represents the relevant stakeholders; if not it's like having a democracy where you cheated the election. If you do not have stakeholder participation in the decision making mechanisms within this new governance system that is emerging, you may actually be cheating the system, as you would be in cheating the election (ibid).
- ³⁰¹ Personal interviewee 04/09/06.

³⁰² Personal interview, 15/06/06. The decision making processes associated with the social responsibility standard were identified by the same interviewee as being slower and more difficult than those associated with other standards organisations, such as FSC and PEFC.

³⁰³ Personal interview #1, 30/06/05.

³⁰⁴ Personal interview #1, 30/06/05.

³⁰⁵ Personal interview, 08/07/05.

³⁰⁶ Personal interview #2, 30/06/05.

³⁰⁷ Ibid.

³⁰⁸ Ibid.

³⁰⁹ Ibid. This was the subcommittee that also contained the working group cited as the perfect example where consensus was not achieved (Hauselmann, *ISO inside out*, p. 8). It is at the working group level that NGOs may vote.

³¹⁰ Personal interview, 08/07/05 and Personal interview #2, 30/06/05.

³¹¹ Personal interview #2, 30/06/05.

³¹² Personal interview, 08/07/05.

³¹³ Personal interview #2, 30/06/05.

³¹⁴ Personal interview, 08/07/05.

³¹⁵ Australia provided an anecdotal example from the progressive end of decision making. Standards could be developed internally, or outsourced although decision making procedures regarding standards development were an internal matter. Whether a standard is in-house or outsourced the same voting rules applied, under which 80% approval was required. However, a second and more important rule was that no group collectively votes no. A collective group could be industry, government or community. A sector-wide no vote is considered a “showstopper”, even if that interest is in a numerical minority. There had to be sector-by-sector approval. Here the national body went beyond the international process. If a given interim standard sought ratification, but the internal standards development process did not have cross-sector support the Board of standards body would rule it as unacceptable (personal interview #2, 30/06/05). Whether this is always put into practice is questionable. In the case of the Australian Forestry Standard (developed under the auspices of Standards Australia) environmental NGOs withdrew from the scheme without the effect described above (The Wilderness Society, *Certifying the Incredible, The Australian Forestry Standard. Barely Legal and not Sustainable*” (No location: The Wilderness Society, 2005), p. 18).

³¹⁶ Jørgen Wettestad, “Designing Effective Environmental Regimes: The Conditional Keys” *Global Governance* 7(3) (2001) pp. 317-341 at pp. 331-338.

³¹⁷ Acuña, *The ECL Space Project*, p. 27.

³¹⁸ Oberthür et al, *Participation of Non-governmental Organisations*, p. 171.

-
- ³¹⁹ Oberthür et al, *Participation of Non-governmental Organisations*, p. 172.
- ³²⁰ ISO, *My ISO Job*, p. 2.
- ³²¹ Acuña, *The ECL Space Project*, p. 27.
- ³²² Personal interview, 08/07/05.
- ³²³ Personal interview #2, 30/06/05.
- ³²⁴ Personal interview, 08/07/05.
- ³²⁵ Ibid.
- ³²⁶ Personal interview #1, 30/06/05.
- ³²⁷ Personal interview #2, 30/06/05.
- ³²⁸ Ibid.
- ³²⁹ Ibid.
- ³³⁰ Personal interview #1, 04/09/06.
- ³³¹ Personal interview #2, 18/07/05.
- ³³² Sharon Link and Eitan Naveh, "Standardization and Discretion: Does the Environmental Standard ISO 14001 Lead to Performance Benefits?" *IEEE Transaction on Engineering Management* 53 (4) (2006), pp. 508-519, at p. 510.
- ³³³ Ibid.
- ³³⁴ Link and Naveh, "Standardization and Discretion", pp. 514-515.
- ³³⁵ Link and Naveh, "Standardization and Discretion", p. 508.
- ³³⁶ Link and Naveh, "Standardization and Discretion", p. 514.
- ³³⁷ Matthew Potoski and Aseem Prakash "Green Clubs and Voluntary Governance: ISO 14001 and Firms' Regulatory Compliance", *American Journal of Political Science*, 49 (2) (2005), pp. 235-248 at p. 239.
- ³³⁸ Ibid.
- ³³⁹ Ibid, citing Oliver Williamson, *Economic Institutions of Capitalism* (New York: Free Press, 1985).
- ³⁴⁰ Raines, Susan Summers, "Judicious Incentives: International Public Policy Responses to the Globalization of Environmental Management" *Review of Policy Research*, 23 (2) (2006) pp. 473-490 at p. 475.
- ³⁴¹ Ibid.
- ³⁴² Personal interview #1, 04/09/06.
- ³⁴³ Ibid.
- ³⁴⁴ Personal interview #1, 04/09/06.
- ³⁴⁵ Personal interview #1, 04/09/06.
- ³⁴⁶ Personal interview, 15/07/05.

-
- ³⁴⁷ Parto, “Aiming Low”, p. 187.
- ³⁴⁸ Andrew A. King, Michael J. Lenox, Ann Terlaak, “The Strategic Use of Decentralized Institutions: Exploring Certification with the ISO 14001 Management Standard”, *Academy of Management Journal*, 48 (6) (2005), pp. 1091-1106 at p. 1101. They do add the caveat, p. 1101, that the short time frame over which most organizations have been certified makes it difficult to estimate ISO 14001-related improvements.
- ³⁴⁹ King et al., “The Strategic Use of Decentralized Institutions”, p. 1103, citing S. Mazza, “International Standards and US industry”, in S. Mazza (ed.) *Hearing of the technology sub-committee of the House of science committee*, (Washington DC: Federal News Service, 1996).
- ³⁵⁰ King et al., “The Strategic Use of Decentralized Institutions” p. 1103-1104.
- ³⁵¹ King et al., “The Strategic Use of Decentralized Institutions” p. 1104.
- ³⁵² Parto, “Aiming Low”, p. 187.
- ³⁵³ Potoski and Prakash “Green Clubs and Voluntary Governance”, citing Dasgupta, Susmita, Hemamala Hettige and David Wheeler, “What Improves Environmental Compliance? Evidence from Mexican Industry”, *Journal of Environmental Economics and Management* 39 (1) (2000), pp. 39-66.
- ³⁵⁴ Potoski and Prakash, “Green Clubs and Voluntary Governance”, p. 236.
- ³⁵⁵ Potoski and Prakash, “Green Clubs and Voluntary Governance”, p. 246.
- ³⁵⁶ Potoski and Prakash, “Green Clubs and Voluntary Governance” pp. 246-247.
- ³⁵⁷ Potoski and Prakash, “Green Clubs and Voluntary Governance” p. 239.
- ³⁵⁸ Potoski and Prakash, “Green Clubs and Voluntary Governance” pp. 246-247.
- ³⁵⁹ Edwards et al., *The Effectiveness of ISO 14001*, p. 99.
- ³⁶⁰ Ibid.
- ³⁶¹ Ibid.
- ³⁶² Edwards et al., *The Effectiveness of ISO 14001*, p. 102.
- ³⁶³ Nancy Vallejo and Pierre Hauselmann, *PEFC An Analysis*, (Pully: WWF, 2001), p. 13, citing BATE’s ISO 14001 Update, “No Link Found between Management Systems and Performance”, *Business and the Environment* 7 (1) (2001).
- ³⁶⁴ Susan L. K. Briggs, “Do Environmental Management Systems Improve Performance?” *Quality Progress* 39 (9) (2006), p. 78.
- ³⁶⁵ King et al., “The Strategic Use of Decentralized Institutions”, p. 1101.
- ³⁶⁶ King et al., “The Strategic Use of Decentralized Institutions”, p. 1103.
- ³⁶⁷ Price, “ISO 14001: Transition to Champion?” p. 15, citing Environmental Data Services, “EMS Certifiers under Scrutiny”, *The ENDS Report*, number 342, pp. 20-23.
- ³⁶⁸ Personal interview #1, 04/09/06.
- ³⁶⁹ Personal interview #1, 05/07/05.

-
- ³⁷⁰ Ibid, citing Thomas Dyllick and Jost Hamschmidt, *Wirksamkeit and Leistung von Umweltmanagementsystemen: eine Untersuchung von ISO 14001-zertifizierten Unternehmen in der Schweiz* (St. Gallen: Institut für Wirtschaft und Ökologie, Universität St. Gallen, 2000).
- ³⁷¹ Personal interview, 12/07/05. Raines also makes the observation that some of the people interviewed for her study expressed disappointment that their early expectations regarding the stringency of ISO 14001 were not met (“Perceptions of Legitimacy and Efficacy”, p. 65).
- ³⁷² Personal interview 15/07/05.
- ³⁷³ Personal interview, 12/07/05. ISO itself does not carry out the certification associated with conformity to its standards (ISO, *My ISO Job*, p. 2).
- ³⁷⁴ Personal interview, 12/07/05.
- ³⁷⁵ Personal interview #2, 30/06/05.
- ³⁷⁶ Personal interview #1, 30/06/05, personal interview #2, 30/06/05, personal interview 08/07/05, personal interview 12/07/05, personal interview 15/07/05.
- ³⁷⁷ Personal interview #1, 30/06/05.
- ³⁷⁸ Personal interview, 12/07/05.
- ³⁷⁹ Personal interview #2, 14/07/05.
- ³⁸⁰ Personal interview #2, 30/06/05.
- ³⁸¹ Personal interview 15/07/05.
- ³⁸² Personal interview 15/09/05.
- ³⁸³ Personal interview, 15/09/06.
- ³⁸⁴ Personal interview, 09/09/05.
- ³⁸⁵ Personal interview #2, 30/06/05.
- ³⁸⁶ Edwards et al., *The Effectiveness of ISO 14001*, p. 7., Tibor and Feldman, *ISO 14000*, p. 53.
- ³⁸⁷ ISO, *My ISO Job*, p. 5. In addition to TC 207 two programmes are of most relevance to this study, ISO’s activities in the area of social responsibility (ISO 26000) and Technical Committee 224, since they cover the historical development of non-state participation in ISO’s social and environmental standards. TC 224 was created in 2001 to develop water management standards. The final standards are to be published in mid 2007 (INNI, “ISO’s Water Management Standards Moving Forward” media release 03/03/06, <http://inni.pacinst.org/inni/Water.htm#FinalizationOf>, accessed 03/05/07).
- ³⁸⁸ ISO/TC 207 N590, pp. 7-8 (referring to ISO Directives Clause 2.3.5 and Clause 3.3.3).
- ³⁸⁹ Personal interview #2, 30/06/05, personal interview, 12/07/05.
- ³⁹⁰ Personal interview, 12/07/05.
- ³⁹¹ Personal interview #2, 30/06/05.
- ³⁹² Personal interview #1, 04/09/06.

³⁹³ Personal interview #1, 04/09/06.

³⁹⁴ Personal interview #2, 30/06/05. ISO's working group on social responsibility was highlighted as a case in point. It deviated quite deliberately from the procedures usually followed within ISO. There was a stronger role for NGOs and a specific group looking at procedures of inclusion, which had already produced several papers. Another interesting difference to the normal procedures within ISO was that it was constituted as a working group (Personal interview #1, 04/09/06). It sat directly under the Technical Management Board, and it was argued, because ISO had not found any other more appropriate structure for it. This was interpreted as an example of ISO recognising that if it wished to get into those types of area that were more related to public policy issue, it needed to have a look at how its current rules were functioning and to see what it could do within confines of its present structure (personal interview #2, 30/06/05). This flexibility led one NGO interviewee to conclude that the changes in ISO as a result of the social responsibility initiative had demonstrated more openness to structural change at the global level than NGOs had achieved within ISO at the European level. ISO did not want to appear old fashioned and outdated, and it understood the need to compete with other systems such as the FSC or the Global Reporting Initiative (GRI), and particularly Social Accountability International. These "non-formal standards bodies" currently had a competitive advantage over ISO, at least from an NGO perspective (Personal interview #1, 04/09/06).

³⁹⁵ Personal interview 15/09/06.

³⁹⁶ Personal interview #2, 18/07/05.

³⁹⁷ ISO/TC 207, N726R0/CAG N 376R3, p. 4. The Plan also refers to developed countries, countries in economic transition and SMEs.

³⁹⁸ ISO/TC 207, "Draft: Recommendations for an Improved Balance of Stakeholder Participation in ISO TC 207", ISO/TC 207 CAG N437R1 (April 2007).

³⁹⁹ ISO/TC 207, "Draft: Recommendations", p. 2.

⁴⁰⁰ INNI, "NGO Task Force Submits to TC207 Its First Deliverable to Improve Balanced Participation", media release 20/05/07, <http://inni.pacinst.org/inni/EMS.htm#NGOCAG>, accessed 28/10/08.

⁴⁰¹ ISO/TC 207, "Draft: Recommendations", pp. 17-18 and p. 9.

⁴⁰² ISO/TC 207, "Draft: Recommendations", p. 3.

⁴⁰³ ISO/TC 207, "Draft: Recommendations", p. 4.

⁴⁰⁴ Anonymous, "Stakeholder Involvement Efforts at the National Level: Summary and Analysis of the NSB Survey Results" (undated).

⁴⁰⁵ Anonymous, "Stakeholder Involvement Efforts", pp. 5-6.

⁴⁰⁶ ISO/TC 207 "Draft ISO/TC 207 Proposed Process to Identify Stakeholder Balance at ISO/TC 207 Meetings", ISO/TC 207 CAG N439R1 (undated), p. 2.

⁴⁰⁷ Ibid.

⁴⁰⁸ Ibid.

⁴⁰⁹ ANEC/ECOS, “Joint ANEC/ECOS Comments on the ISO 14000 Series Review”, ANEC-ENV-G-030final (October, 2007).

⁴¹⁰ ANEC/ECOS, “Joint ANEC/ECOS Comments”, p. 1.

⁴¹¹ Ibid.

⁴¹² ANEC/ECOS, “Joint ANEC/ECOS Comments”, p. 2.

⁴¹³ ANEC/ECOS, “Joint ANEC/ECOS Comments”, pp. 8 - 11.

⁴¹⁴ This change was also not without conflict, both between divergent sectoral interests and within given interests as the battle between NGOs and the CSA initiative, and the opposition in some member bodies to CSA’s sectoral standards shows. Elliott makes the following interesting observations regarding ISO on the matter of adapting to change:

ISO and its member bodies can be viewed as an epistemic community of technical experts on certification. These experts view the firm as a learning organization with the commitment to continual improvement, whether in quality or environmental management, and see the use of management systems standards as a way of facilitating this...ISO’s decision to develop standards for environmental management has attracted other actors, such as NGOs, who are not part of this epistemic community to ISO meetings...this has led to conflict both between the new actors and members of the epistemic community, and between members of the community itself (*Forest Certification*, pp. 155-156).

Epistemic communities “hold in common a set of principles and causal beliefs, but also have shared notions of validity and a shared policy enterprise. Their authoritative claim to policy-relevant knowledge in a particular domain is based on their recognized expertise within that domain” (Peter M. Haas, “Introduction: Epistemic Communities and International Policy Coordination”, *International Organization* 46 (1) (1992), p. 16, quoted in Ronnie D. Lipschutz and Judith Mayer, *Global Civil Society and Global Environmental Governance: The Politics of Nature from Place to Planet*, (Albany: State University of New York Press, 1996), p. 66).

⁴¹⁵ Hortensius, “ISO 14000 and Forestry Management”, pp. 14-15.

⁴¹⁶ Ibid.

⁴¹⁷ The rethink associated with the development of the ISO 26000 would appear to confirm this.

Programme for the Endorsement of Forest Certification Schemes (PEFC)¹

Introduction

This chapter investigates PEFC, the second forest certification system to be examined in this study. It provides an interesting counter-example to FSC, since like FSC it was largely initiated originally by a single interest grouping, but in its case forest owners, as opposed to NGOs. As an essentially ‘private’ model of governance, how it expresses the various institutional attributes identified in this study as contributing to quality and legitimacy provides some interesting insights into the effectiveness of this type of forest governance versus the more ‘civic’ model of FSC. In addition, the performance of PEFC as a certification institution also contributes to the broader understanding of the strengths, and weaknesses, of certification as a regulatory tool for forest management. The chapter begins with a historical analysis of the development and growth of the institution, and, given its origins, traces the history of its relationship with NGOs and other public interests. The study repeats the critical analytical methods used in the previous chapters, and includes a postscript that reflects on the most important events that have occurred within the institution subsequent to the data acquisition phase of the study, most notably the PEFC governance review. The chapter finishes with some broad conclusions regarding the programme’s performance and governance-related issues. Given the emphasis of this study on PEFC’s governance at the global level, much of the nationally relevant material is to be found in the endnotes, as are further observations on FSC and certification generally.

Historical Overview

Origins and Institutional Development

The creation of PEFC can be linked to fears amongst certain forestry interests of a monopoly of FSC certification in Europe.² German publishers and printing houses had been under pressure from Greenpeace since 1993 to cease using paper sourced from old growth or poorly managed forests sourced in Nordic countries. In 1995 the Association of German Paper Producers and the Association of German Magazine Publishers issued a statement committing themselves to products, which could be sourced under a credible global programme. NGOs had not insisted on FSC, but publishers had the FSC programme in mind.³ In cooperation with various European forest owner groups, Finnish forestry interests collaborated in a campaign focussed on Axel Springer Verlag as well as Otto Versand, two of the largest publishers and consumers of FSC paper in Germany. In December 1997 eight hundred people from eleven European countries demonstrated outside the companies' offices in Hamburg, condemning the companies' support for FSC.⁴ This event has been identified as “the psychological point of origin of the European forest certification system.”⁵

By the late 1990s European forest industries began to see the need to have “credibility without tight engagement with the FSC” and to pursue their own certification initiative via an alternative market system.⁶ This was similar to developments in North America, where forestry interests responded to the creation of the FSC in 1993 by commencing the development of their own competitor certification schemes: the Canadian Standards Association (CSA) and the US Sustainable Forestry Initiative (SFI).⁷ European efforts were again led by Scandinavia, and between 1995 and 1996 forest industries and forest owners in

Norway, Sweden and Finland attempted to develop a “pan-Nordic” project. This foundered on account of NGO opposition to anything other than FSC certification (see below).⁸ Forestry interests on the other hand preferred national certification initiatives, which they considered more cost-effective, and better suited to small-scale forest ownership structures, although it was understood that they were not sufficiently credible for non-domestic markets. The view emerged that a pan-European system, into which national schemes could fit, would provide the necessary international framework for forest certification.⁹ By this stage, the conclusion had been reached that the FSC was not meeting the needs of private forest landowners.¹⁰ Following their experiences in Sweden and Finland, Scandinavian landowner associations in particular were already feeling excluded from FSC processes.¹¹

In 1998, the Finnish Forest Industries Federation (FFIF) raised the idea of enlisting the support of the EU in developing an initiative for the certification and labelling of products from sustainably managed forests.¹² The European Commission was lobbied to create an EU-level certification framework, and there were discussions with four directorate generals (industry, agriculture, development and environment) as well as Parliament members.¹³ No directives or regulations were issued on the subject however, although a meeting was held between the forestry ministers of Finland and Germany in March 1998.¹⁴ A subsequent seminar was held between representatives from the German and Finnish forestry sectors, where it was agreed that a European certification system should be developed. The FSC was considered generally unsuitable, and the Germans particularly wanted “a functioning European system before the FSC gained a foothold.”¹⁵ It was decided to recruit Sweden, the UK, Norway, Denmark,

France, Austria and Poland to the cause. A decision was made to keep government participation in the background, but the state authorities of Finland, Germany and France provided behind the scenes support during negotiations associated with the scheme's development. The need for such assistance appears to have been partly on account of the geo-political niceties associated with balancing the influence of an emergent French-German axis through the recruitment of further Nordic and Austrian interests.¹⁶

Several technical working group meetings were held to oversee and develop the content of the proposed scheme.¹⁷ The time was right, it was observed, "to construct a European alternative to the FSC."¹⁸ After initial meetings a draft certification framework was developed and it was determined to invite "market partners" and an enlarged number of participant countries to subsequent events.¹⁹ It was agreed that a general assembly should be constituted, as well as a board of directors. The general assembly would be based around country representation, with one to three votes being allocated according to the scale of cutting in a given country. Other European and international organisations could attend, but they could not vote. The proposed board would represent geographical region and annual harvest volumes.²⁰

Attendees at meetings appear to have consisted largely of forest owner associations, industry interests and experts from Europe, although representatives from the American Tree Farm System, Australia and Malaysia also invited themselves and were allowed to attend as observers.²¹ This participation generated broader, more speculative, policy discussions and between 1998 and early 1999 the idea that the scheme should not just be confined to Europe was given serious consideration. The European focus of the scheme, it was suggested, might be

perceived as constituting a barrier to trade, and a solution might be found by creating a process of mutual recognition for national certification programmes beyond Europe.²²

Having finalised the general framework, deliberations regarding the development of the European scheme continued until June 1999, when it was launched in Paris under the name Pan European Forest Certification (PEFC).²³ Eleven country representatives from Austria, Belgium, the Czech Republic, France, Finland, Ireland, Norway, Portugal, Spain, Sweden and Switzerland participated.²⁴ The PEFC's interim Board was established at the same meeting, consisting of five forest owner associations and one seat each for industry, processors and NGOs.²⁵ The first PEFC schemes from Finland, Norway, Sweden, Germany and Austria were endorsed in 2000 and in May 2001 the Canadian Standards Association (CSA) joined the PEFC Council.²⁶ Canada's certification scheme, known as the National Standard for Sustainable Forest Management Z809, had been in operation domestically since 1996.²⁷ PEFC passed the FSC's area of certified forest for the first time in July 2001 (36.42 million hectares to 22.38 million hectares).²⁸ The endorsement of the French, Latvian, Czech and Swiss schemes occurred in the same year, followed by Spain and Denmark in 2002, and in the same year the revision process began for some of PEFC's earlier standards, most notably in Finland and Norway.²⁹

Some effort was also put back into re-engaging forest owner interests during this period. Revisiting the tactics of the late 'nineties, forest owner groups were again placed at the forefront of PEFC's campaigning activities, protesting outside the German DIY stores of OBI against its "boycott" of the PEFC label in favour of FSC products. OBI was represented on the board of FSC Germany and was a

member of the WWF buyers group. As a result of the demonstrations the company agreed to meet with owner representatives in an attempt to defuse the situation.³⁰

Towards the end of 2002 another four national schemes from Australia (Australian Forestry Standard Ltd - AFS), Brazil (CERFLOR), Chile (CERTFOR) and Malaysia (Malaysian Timber certification Council - MTCC) were elected at the General Assembly as PEFC members.³¹ The recruitment of such schemes into the PEFC camp has been linked to more concerted efforts to go global.³² As a result, the General Assembly became the main forum for discussions regarding the globalised format for the system during this period.³³ These discussions were followed by an invitation from Gabon to the PEFC Chairman to discuss the feasibility of developing a pan-African forest certification system.³⁴ The possibility of expansion led the Board of Directors to establish a Globalisation Working Group.³⁵ Determining to keep the same initials, but recognising that it had “extensively extended its geographical coverage...over the past four years”, the General Assembly agreed to change the scheme’s name and orientation in October 2003. PEFC was consequently renamed the Programme for the Endorsement of Forest Certification schemes in the same year.³⁶

The scheme’s global expansion continued in 2004 with the launch of a promotional campaign in Asia, sponsored by Australia’s National Association of Forest Industries, one of the original instigators of the Australian scheme.³⁷ The Australian, Italian, Chilean and Portuguese national programmes were also endorsed as member schemes. In 2005, the certification schemes of Canada Brazil, Luxembourg and the Slovak republic were also formally endorsed as well as the US-based Sustainable Forestry Initiative (SFI).³⁸ With this growth in

international membership there also came a shift in governmental attitudes towards PEFC, and from this point onwards, European markets -- and government procurement policies -- began a process of mutual recognition of both FSC and PEFC schemes, which may also be attributable to PEFC's political mobilisation around procurement issues.³⁹

2006 was a significant year for PEFC. Asia and Africa experienced an expansion of the Programme's chain of custody certificates.⁴⁰ Other countries identified with PEFC in its global statistics for this year include Hungary, Japan, Morocco and the Netherlands along with Poland and Slovenia, whose schemes were under assessment.⁴¹ PEFC members lining up for, or pending, endorsement included the UK, Estonia, Malaysia, Russia, Gabon and Belarus.⁴² By the end of the year, thanks to its endorsement of a number of previously discrete schemes such as the SFI, PEFC controlled 69% of the world's certified timber, in comparison to FSC's 24%.⁴³ As of 2007 PEFC had a membership of 33 "independent national forest certification systems", 22 of which had already undergone assessment, with the remaining country schemes being at various stages of development and recognition under PEFC procedures.⁴⁴ PEFC's area of certified forests rose from 32.37 million hectares in 2000 to 196.325 million hectares by April 2007. Chain of custody certificate holders increased from approximately 100 in 2001 to 3,127 by April 2007.⁴⁵

Conflict with NGOs and External Relations Initiatives

The failed pan-Nordic and subsequent Finnish certification experiences heavily informed PEFC's institutional attitude towards NGO interests. Environmental NGOs were initially included in discussions regarding the development of an industry-initiated forest certification process for Finland prior to the creation of

PEFC, WWF, the Finnish Association for Nature Conservation (FANC) and the Finnish Nature League (FNL) collaborated with the Finnish Forest Industries' Council (FFIC) and the Finnish Forest Owners' Association (MTK) in the development of a draft standard. Greenpeace Finland did not participate in the process and was actively critical. A draft was negotiated between June 1996 and March 1997, but the consensus between parties was short-lived and the agreement collapsed.⁴⁶

Forestry interests acknowledged that “some difficulties” had been encountered in negotiations and that new methods were needed to create mutual trust.⁴⁷ Recognising that credibility arose from the development of certification standards that allowed “all interested parties to participate and have the possibility to influence the standards”, a decision was made to restart the negotiating process.⁴⁸ Discussions on the development of what was now referred to as the Finnish Forest Certification System (FFCS) began in November 1998 under the auspices of the Finnish Forest Certification Council (FFCC), and MTK.⁴⁹ The two organisations issued invitations to the members of the 1997 standards development group to discuss the launching of the Finnish certification system, but environmental groups did not attend.⁵⁰ The standard was finalised in the absence of environmental NGOs. This action was justified under the argument that NGOs were not needed since their dissatisfaction had been addressed in the new criteria.⁵¹ Negotiations regarding forest management as a whole did not require further stakeholder consultation, but only in the context of the development of the necessary criteria, which had already occurred.⁵² This resulted in accusations from NGOs that the forestry sector had exploited their participation, and had not properly informed the public that NGOs had withdrawn from the process.⁵³

How to include dissenting interests therefore became a major issue for the emergent PEFC scheme, particularly if participating countries had already developed their standard. At an August 1998 meeting in Helsinki, it was agreed that environmental NGOs were not be invited to participate until forest interests had determined the framework of the scheme, and only then would they be consulted. This only seemed to confirm NGO criticisms of the system.⁵⁴ The decision was to cause problems, as one of the guiding principles of the system was that it should be developed by means of open access and “participation that seeks to involve all relevant parties.”⁵⁵ Since this had not occurred, it was necessary to clarify that the scheme would be a “voluntary *private sector* initiative based on a broad view among relevant *interested* parties.”⁵⁶ It was also agreed that the perspectives of other parties (presumably meaning NGOs) would be considered, but that they would be informed subsequently about the process. Only then would they be invited to participate in subsequent events.⁵⁷

Consequently even before its launch, PEFC was being criticised by NGOs as an attempt by European forest industry groups to create an international FSC-alternative.⁵⁸ A major concern was that as a membership organisation, PEFC would only give voting rights to national governing bodies established by forest owners and industry associations, who were not obliged to include other interested parties. It was also pointed out, quoting from the scheme’s own documentation, that the forest owners themselves were responsible for the development of forest management criteria.⁵⁹ This made it clear, it was argued, that the PEFC was an organisation “by and for forest owners.”⁶⁰ It would also not enjoy much support from European NGOs unless it developed performance criteria, and although European NGOs acknowledged forest owners’ problems

with the FSC, they argued that their needs would be better served by engaging in dialogue with FSC.⁶¹

Shortly after the launch of the scheme German environmental NGOs warned printers not use PEFC certified paper. They pointed out in particular the scheme's failure to ban clearfelling and the use of pesticides, the shortcomings in monitoring provisions, and the minimal ability for environmental and social groups to exercise any influence.⁶² By February 2001 relations between NGOs and PEFC had deteriorated to such an extent that they were being described by external commentators as constituting a "certification war", and by PEFC supporters as a "tribal war."⁶³ Most NGOs seem to have displayed their displeasure with the PEFC system by refusing to participate in standards setting processes.⁶⁴ NGO engagement with PEFC was consequently largely confined to the production of detailed critiques outlining the structural and procedural shortcomings across the system, and in comparative studies with other schemes.⁶⁵ PEFC members and supporters roundly condemned the studies.⁶⁶ When WWF challenged the legality of the Austrian scheme, PEFC responded by accusing WWF of issuing "inaccurate, sensationalist...and...discredited" information.⁶⁷ It asserted that: "WWF only supports the FSC labelling system, which was originally designed for tropical rainforests."⁶⁸

However, environmental NGOs did not constitute an entirely united bloc of resistance to PEFC. At the organisation's General Assembly in July 2001 two individuals from Germany and France who declared an environmental interest were elected to the Board of Directors. Although both had extensive backgrounds in forestry and also served on the national Boards of PEFC in their own countries, they nevertheless also represented national environmental organisations in their

own countries.⁶⁹ The participation of the French peak environmental NGO France Nature Environnement (FNE -- on whose Board a French PEFC Council Board member also sat) has been acknowledged by NGO commentators as: “a large coalition of environmental NGOs.”⁷⁰ Nevertheless FNE’s decision to participate in the French PEFC standard setting was described as an exception to the general environmental NGO practice of non-participation.⁷¹ In the case of Germany, NGO critics dismissed the groups as “small environmental and social NGOs.”⁷² PEFC Germany commented that it was correct that major NGOs were not participating in the scheme, but claimed that “this is not the fault of the system but rather it is the intention of these groups to weaken the PEFC process by their absenteeism.”⁷³ It suggested: “ENGOS should carefully consider if it is worth to continue [sic] the struggle for power, or if it would be wiser to participate in a system that is already delivering on 40% of the German forest area.”⁷⁴

Despite these incremental gains in national NGO support, a somewhat frustrated note can nevertheless be detected in PEFC literature during 2001 regarding NGO attitudes to the system. WWF’s accusations that the Austrian system had no minimum ecological standards and insubstantial controls and that that environmental organisations had no influence on PEFC Council were dismissed as being “substantially wrong”. PEFC stressed that NGOs could participate in national PEFC institutions and vote in them.⁷⁵ WWF’s claims were simply dismissed as “attempts to shame the successful PEFC Initiative.”⁷⁶ PEFC Germany responded to NGO criticisms regarding the system’s auditing procedures by inviting them to witness a forest audit first hand in the region of Rheinland-Pfalz, but no group participated.⁷⁷ Later in the year an attempt at negotiating an agreement between NGOs, trade unions and the timber industry

was only partially successful, and the major NGOs were accused of not signing for tactical reasons. PEFC expressed the hope that the process would prevent “groundless attacks” in the future and constitute “a first step towards a peaceful co-existence” between PEFC and FSC.⁷⁸

In Norway and Finland NGO-forestry relations remained hostile. In Norway, WWF launched further attacks on the system’s credibility during this period.⁷⁹ In Finland, PEFC’s revised standards were published in 2002, and encountered NGO objections, as did those of Norway, published in 2003.⁸⁰ The release of the revised standard in Finland led NGOs to conclude that the “standard has actually been weakened”, whilst “other weaknesses have remained unchanged.”⁸¹ Differences between PEFC and NGO supporters of the FSC were not always irreconcilable, however. Discussions in Sweden between PEFC and FSC interests resulted in an arrangement for the processing of timber by mills certified under either programme.⁸² Nevertheless, NGO objections also began to emerge elsewhere in the PEFC system, most notably Malaysia, Chile and Australia. These national schemes were accused by local NGOs of being dominated by industry, imbalanced in their arrangements for stakeholder participation, and lacking in adequate performance-based thresholds.⁸³ Canada’s scheme had also been heavily criticised by NGOs previously.⁸⁴

2002 also marked a change of tack in PEFC’s response to NGO criticisms. It commissioned a report to review the criticisms and arguments of its opponents and to determine the significance of any underlying issues. The report was made public in the hope that “those with an interest in participating in the further strengthening of the PEFC scheme” would make contributions. Ben Gunnerberg, the institution’s Secretary General, looked back at the “unwarranted, and

unfounded criticism” of the previous years, but took a pragmatic approach, seeing it as part of a learning process to take on board criticisms that helped it grow, and to ignore “the destructive, misleading and untrue.”⁸⁵ At this time a growing understanding of the importance of participation in the development of national schemes began to emerge, even if the emphasis was placed on forest owners rather than major environmental NGOs. It was recognised that collaboration would occur only if participants were “actively involved in establishing and developing the cooperation structure.”⁸⁶

Recognising the importance of public perception, and embracing the need to gain support from NGOs, PEFC France and French NGO FNE organised a symposium in France in May 2004 for environmental NGOs interested in and supportive of “the PEFC approach to sustainable forest management certification.”⁸⁷ The purpose was to bring about an exchange of views between participating environmental NGOs regarding the system, and to discuss creating an international NGO network to express their views internationally.⁸⁸ Fifteen NGOs from 13 countries attended. In an attempt to consolidate national NGO support, agreement was reached to establish an informal global network built around national and sub-national NGO interests involved in national schemes.⁸⁹ FNE was given a leading role in the new network and took on the secretariat of what was referred to as an “international platform.” The global network was “open to all international, national and sub-national NGOs wishing to take part in the ongoing development of PEFC national schemes.”⁹⁰

The conflict between WWF and PEFC also took a new turn in 2004. PEFC Council sent an open letter to the World Bank/WWF Alliance challenging their lack of multi-stakeholder participation in the development of a questionnaire for

assessing the comprehensiveness of PEFC and FSC forest certification schemes in 12 European countries. The questionnaire was condemned as having a strong bias towards FSC, and PEFC called upon the Alliance “not to continue with this flawed approach.”⁹¹ Instead it offered an alternative process for “open and transparent discussion... that all stakeholders [could] have trust in.”⁹² PEFC affiliates also came into conflict with the World Bank on a separate, but related certification matter, as the Bank’s forest certification fund had refused to provide support for PEFC certification account of its treatment of indigenous people, particularly the Sámi. The affiliates criticised this policy as being inappropriate to the evaluation of sustainability in Europe.⁹³ The PEFC Board of Directors met with a representative of the World Bank in early 2005, reiterating its willingness to cooperate “once the current exercise with only one stakeholder [i.e. WWF] having a disproportionate say in the World Bank’s internal lending policy” came to an end.⁹⁴

Work Bank problems notwithstanding, PEFC worked to ensure external international recognition of its approach to forest certification for much of 2004. One important development in this direction was the organisation’s acceptance as an association member by the International Accreditation Forum (IAF).⁹⁵ The alliance was identified by PEFC as an opportunity “to ensure that accredited forest certification certificates issued in one part of the world are recognised everywhere else.”⁹⁶ Further significant steps in its campaign to gain international recognition of its legitimacy in the forest management domain followed. During the same timeframe it sought recognition under the IAF, it also gained consultative status in the United Nation’s Economic and Social Council.⁹⁷ In 2007, PEFC was granted observer status in the Ministerial Council for the

Protection of Forests in Europe (MCPFE), the European intergovernmental forest process, allowing it to “actively contribute its expertise” in the process.⁹⁸

In the latter half of 2006 PEFC received a further boost to its credibility when its social criteria were recognised, along with those of FSC, as “good” in a test of ten eco-labels undertaken for German trade union IG BAU. PEFC was particularly recognised for its requirement that companies in the system offer training places.⁹⁹ In the same year Luxembourg national environmental NGO, NATURA, became a member of PEFC Luxembourg.¹⁰⁰ Ben Gunnerberg, PEFC Council Secretary General was to comment that: “more national initiatives, ENGOs and associations in the forest, timber and paper sector are seeking to participate in the PEFC Council’s activities.”¹⁰¹ At the General Assembly of the same year, Peter Seligmann, co-founder, chair and CEO of Conservation International (CI) presented the keynote speech.¹⁰² In 2004 CI had established a forum in collaboration with pulp company Aracruz Celulose, previously an FSC-certified entity, and the Partnership Fund for Critical Ecosystems to facilitate dialogue between environmental NGOs and forest plantation pulp companies in Brazil.¹⁰³ This process led to the development of “forestry partner programs” in 2007 with farmers.¹⁰⁴

In April 2007 PEFC issued a brochure, which claimed it was supported by environmental NGOs. The intention of the brochure was to provide the facts “behind a number of incorrect assertions”, concerning indigenous peoples’ participation, environmental NGO support of PEFC and its social dialogue.¹⁰⁵ Both French-based FNE, and CI were also listed as supporters.¹⁰⁶ The participation of the Austrian organisation Umweltdachverband, representing 34

national ENGOs was cited as evidence of support of PEFC by environmental NGOs.¹⁰⁷

Governance Within PEFC

System Participants

Participation within the PEFC system occurs both internally and externally on several different levels (internationally, nationally and/or regionally), and within a range of processes associated with standards setting, endorsement and certification. Membership consists of national governing bodies, whose objective is to instigate the creation of a PEFC scheme within their own country, and who may apply to join the international body, referred to as the PEFC Council.¹⁰⁸ Following ISO 14004 the Council identifies a stakeholder or interested party as “an individual or group of individuals with a common interest, concerned with or affected by the operation of an organisation.”¹⁰⁹ Other associations may become members, such as international organisations, “which support the objectives of the PEFC Council”, but they are classified as extraordinary members with no voting rights.¹¹⁰ At the end of 2006 there were eleven extraordinary members representing forest owners, managers, processors, and trading interests.¹¹¹

PEFC’s Statutes are not explicit regarding the membership composition of the national governing bodies, which have sole responsibility for determining who should be invited to become members.¹¹² These provisions have resulted in a degree of variation in stakeholder composition in national governing bodies. In some countries, as in the case of Australia, for example, only government and the country’s forest industry associations were responsible for overseeing the development of the scheme.¹¹³ In France, by contrast, an environmental NGO sits on the national PEFC Council.¹¹⁴

Institutional Arrangements

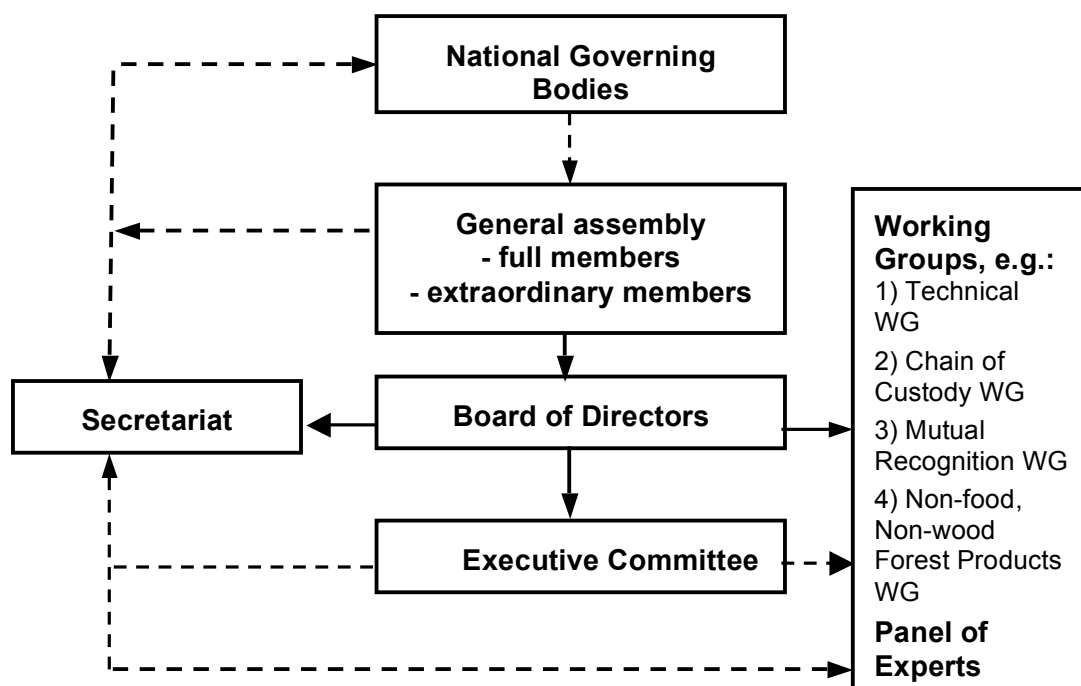
International Level

PEFC is based in Luxembourg, and bound by the Luxembourg law of April 21, 1928 concerning non-profit making associations and foundations.¹¹⁵ PEFC describes itself as “a global umbrella organisation for the assessment and mutual recognition of national forest certification schemes developed in a multi-stakeholder process.”¹¹⁶ The name “PEFC Council” is used to describe the associative relationship between members of the institution.¹¹⁷ The PEFC Council is the governing body of the scheme, and the formal representative of the system with a minimum size of six members.¹¹⁸ The General Assembly is the highest body of the PEFC Council. It meets annually and is comprised of one official delegate per national programme, and who may be accompanied by up to two observers from its governing body.¹¹⁹ The assembly has a number of tasks. It elects and dismisses the Board of Directors and members, revises the Statutes, documents and procedures of the scheme, adopts the budget and accounts and selects the auditors, chooses the institution’s location, and is responsible for dissolving the PEFC Council.¹²⁰ It also elects the organisation’s Chairman, and First and Second Vice-Chairman.¹²¹

Three years after its foundation, at the General Assembly of November 2002, it was agreed to totally revise the organisation’s existing technical documents. This was partly in response to external criticisms, and it commissioned an independent evaluation by a respected consultant.¹²² In order to “ensure compatibility with national accreditation organizations represented by the International Accreditation Forum” the system’s assessment procedures for its revised member schemes were expanded. A Panel of Experts was created, partly to provide a mechanism for

quality assurance.¹²³ Further revisions of PEFC's normative documentation as well as its existing guidelines and the development of new requirements followed.¹²⁴ These started to be approved over 2003.¹²⁵

Figure 6.1 Structure of PEFC



Source: PEFC Technical Document, p. 5; solid black lines indicate entities associated with PEFC Council

The Board of Directors consists of the Chairman of the PEFC Council, two Vice-Chairmen and 2-10 members.¹²⁶ The Directors of the Board are the administrators and managers of the PEFC Council.¹²⁷ The Board's more substantive activities include promoting the scheme and undertaking public relations initiatives, as well as determining the conformity of applicant schemes to PEFC requirements, and considering the suitability of non-PEFC schemes for mutual recognition.¹²⁸ Administrative duties of the Board include preparing for the General Assembly, including related financial matters, establishing working groups and expert panels for specific tasks, and the appointment and dismissal of personnel, including the Secretary General. The Secretary General is answerable

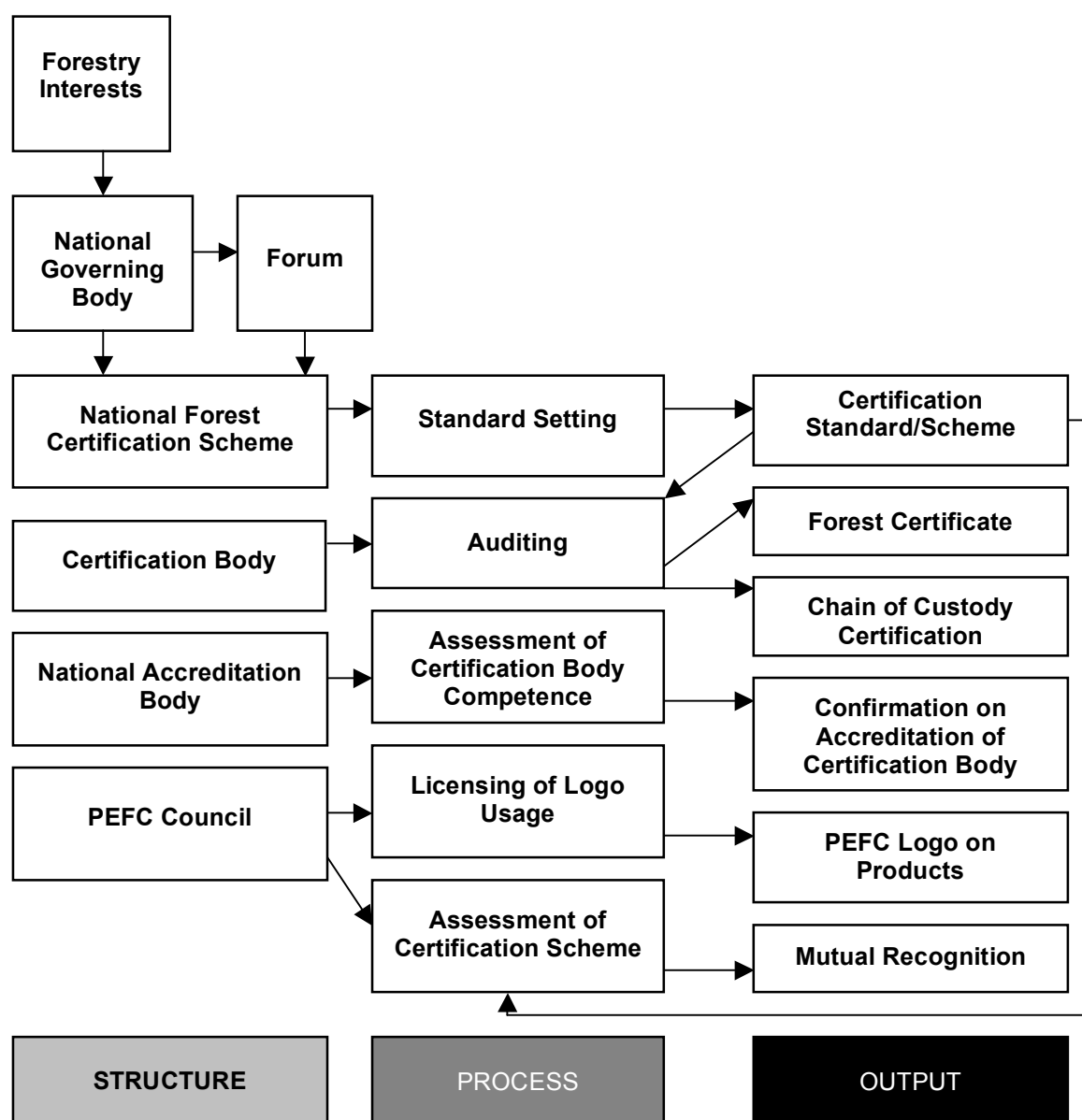
to the Board, and exists to ensure communication between members, support the work of Board, attend meetings, take minutes and manage the Secretariat, which can be based in any of its member bodies.¹²⁹ An Executive Committee, consisting of the Chairman and the Vice-Chairmen, and permitted to co-opt other Board members as required, exists to undertake tasks assigned it by the Board.¹³⁰ See Figure 6.1 above.

National Level

The normative operational bases for PEFC-member schemes are: the Pan European Operational level Guidelines (PEOLG); the Principles Criteria and Indicators for the Sustainable Forest Management of African Natural Tropics (ATTO/ITTO PC&I); Criteria and indicators for the Conservation and Sustainable Management of Temperate and Boreal Forests (Montréal Process C&I); and a range of other regional processes.¹³¹ These existed prior to the establishment of PEFC. National schemes are instigated by “national forest owners’ organisations or national forestry sector organisations having the support of the major forest owners’ associations.”¹³²

At the behest of this national governing body of forestry organisations, interested parties are subsequently invited to constitute a forum for the development of national standards. Such parties “should” represent the “different aspects of sustainable forest management” and include forest owners, forest industry, environmental and social NGOs, trade unions, retailers and other relevant organisations at a national or sub-national level.¹³³ Figure 6.2 below outlines the institutional relationship between national governing bodies, the PEFC Council and other related entities.

Figure 6.2 Structural and procedural arrangements for standards setting and related activities within the PEFC system



Sources: <http://www.pefc.org/internet/html/acitivities.htm> (adapted); Rules for Standard Setting, p. 3, PEFC Technical Document, p. 6

Standards Development, Accreditation, Chain of Custody and Certification

PEFC's requirement for the setting of standards follow ISO Guide 59 and specifies that "all relevant interested parties shall be invited to participate in the standard setting and the PEFC principles on transparency and consultations shall be respected."¹³⁴ National forums are responsible for standards setting and

constitute committees, councils, working groups or similar.¹³⁵ Formal consultation regarding the drafting of standards consists of the views of interested parties arising from consultation being “discussed”, and the national forums must give “general information” on the changes made in the light of the consultation process.¹³⁶ Once national standards and national schemes have been developed, there is a process for their endorsement, mutual recognition and revision by PEFC.¹³⁷ The process of assessment is “transparent and consultative”, and occurs on international and national levels.¹³⁸ Procedures also exist for the development of chain of custody standards, although it is not clear if there is any public participation.¹³⁹

Certification enterprises must also be accredited by a national accreditation body, which in turn must be a member of either the International Accreditation Forum or the European Co-operation for Accreditation (EA) and follow the requirements of ISO Guide 61. Depending on the type of national certification standards the certification body further requires accreditation under a national accreditation body that is either competent in the “specified field of operation”, or familiar with ISO quality and environmental management systems (ISO 9000:2000 or ISO 14001) or EMAS.¹⁴⁰ As of 2005, certification bodies that had accredited forest management or chain of custody standards without these necessary provisions were given four years -- from the issuance of the first national scheme certificate -- to catch up with accreditation requirements. Non-conformance is stated to render the certificates of such entities invalid.¹⁴¹

Certification under PEFC covers forest management on a regional, group and individual level and chain of custody. All forms of certification, under different arrangements, permit the use of the PEFC logo and trademark.¹⁴² Chain of

custody requirements for public consultation are lacking in the relevant PEFC normative document.¹⁴³ Forest management certification under the PEFC-framework is based on existing international management systems, product certification and the EMAS verification procedures.¹⁴⁴ Management systems certification can be either quality or environmental, and all procedures are based on either the relevant ISO Guide (62, 66, 65) or EC Regulation 761/2001, as appropriate.¹⁴⁵ Additional procedures covering forest management and chain of custody certification may be developed by the given scheme, but this is optional.¹⁴⁶

In 2002, the General Assembly also agreed to the development of an international chain of custody programme, and supported the work of the Confederation of European Pulp and Paper Industries (CEPI) and the European Confederation of Woodworking Industries (CEI Bois) on a similar project for almost two years. In January 2004, the Board determined to pursue its own parallel initiative to create a standard, and thus bring the two processes together under one international generic chain of custody.¹⁴⁷ The standard was approved and subsequently released after the General Assembly of 2004.¹⁴⁸ The relationships between these structures and processes are set out in Figure 6.2 above.

Institutional Typology

Forest certification has been located within a general movement that displays a trend towards international private/civic governance, in which actors largely govern their own affairs, without state involvement, or without the legitimisation of state political authority. This has led to the definition of forest certification, as discussed by Cashore et al as an example of non-state market-driven governance

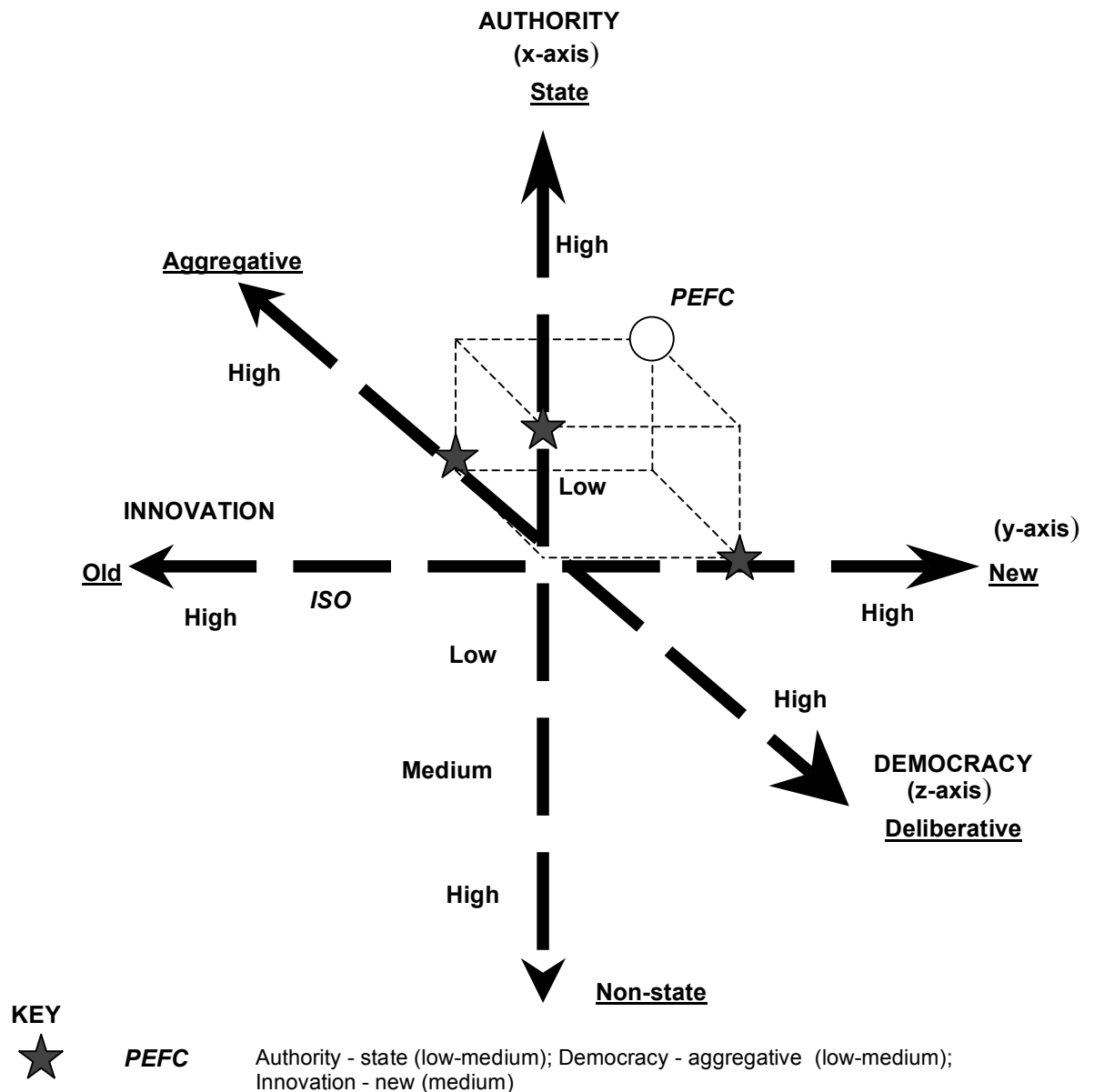
(NSMD). However, owing to the increasing interest by nation-states in forest certification, and the relationship -- albeit tangentially -- to intergovernmental forest-related activities, the purity of this vision has been somewhat diluted. Created as a response to FSC, PEFC has provided an umbrella under which national certification initiatives have challenged this 'original' model of NSMD. National forest certification has both influenced -- and been influenced by -- the changing laws and policies associated with SFM and national forest programmes. This has led to a revision of the classification of certification, which is now seen as operating in the shadow of governmental hierarchy, and an example of the 'mixed' mode of governance.¹⁴⁹

PEFC relies heavily on European and other regional intergovernmental forest policy frameworks and is comprised of national certification programmes generally recognised by national governments. National governments have also played -- and continue to play -- an important role in its development. For example, a governmental forestry agency is represented on the Board of Directors. Clearly non-state interests constitute the most significant players in the system, but as these largely consist of economic interests, it is an exaggerated claim to assert that PEFC represents a 'pure' non-state system comprised of a wide range of non-state actors. It belongs in the state-centric, rather than the non-state end of the continuum, but given its relatively autonomous nature, with a rating somewhere between **medium** and **low**.

Following normative international trends, PEFC lays claim to being consensus-based in standards setting. However, once they are submitted for endorsement internationally, standards require a qualified majority vote of two-thirds of the General Assembly. Furthermore, in both the General Assembly, and the Board of

Directors, the PEFC Council functions democratically on the basis of voting by simple majority. These factors place the institution towards the aggregative rather than the deliberative end of the democratic continuum, but with a rating of somewhere between **medium** and **low**.

Figure 6.3 Institutional classification of PEFC



As a network of largely autonomous, self-governing national schemes embedded within national regulatory frameworks, PEFC is relatively ‘new’ in its governance style. The institution can also be interpreted as constituting a series of

public-private partnerships between governments and forest interests. These considerations also make it relatively innovative. However, the close linkages from sub-national/national programmes, upwards to intergovernmental forest policy frameworks tie it to more classical, hierarchical notions of governance.¹⁵⁰ This places it on the ‘new’ end of the innovation continuum, but with a rating of **medium**. See Figure 6.3 above.

Critical Analysis

Interest Representation

Inclusiveness

The argument has been advanced that unhindered participation is fundamental to the concept of sustainable governance.¹⁵¹ A general trend has also been identified in forest certification specifically towards greater procedural and structural participation.¹⁵² The forest industry faces several dilemmas when it comes to improving, or maintaining, market access through initiatives such as certification. It needs to ensure inclusiveness, which delivers credibility, but also needs to respect forest sector sensitivities, thus ensuring producer participation. The rivalry between PEFC and FSC on this view is interpreted as being based upon different approaches to the common problem of gaining rule-making legitimacy between NGOs, forest owners and forest product purchasers.¹⁵³ This has resulted in very different concepts of governance between the competing programmes.¹⁵⁴ The approach adopted by schemes dominated by forestry interests such as PEFC may in fact reflect a contending conception of participation, but one that is nevertheless still subjected to an “upwards pull” towards greater participation.¹⁵⁵

PEFC has been found to be moving only slowly on issues relating to participation, however.¹⁵⁶ One commentator has noted that: “there are marked

differences between the design of the FSC and PEFC systems in the degree to which they allow for stakeholders' participation."¹⁵⁷ PEFC enjoys a close relationship with governments, and has succeeded in bringing government agencies into direct interaction with the system.¹⁵⁸ This interaction has led some commentators to claim that governments were actively involved in the Programme's establishment.¹⁵⁹ It has led others to conclude that while PEFC may be formally non-governmental it is heavily dependent on governmental and semi-governmental agencies.¹⁶⁰ The problem here is not that government participates in forest certification.¹⁶¹ Rather, it is that PEFC claims to be participatory but, being controlled by landholder and industry groups, in reality chooses quite deliberately which additional stakeholders are included in decision making.¹⁶² The determination regarding the extent to which other stakeholders are included, and when, is also in the hands of forestry interests.¹⁶³

Internationally, in the case of the Board, it is stated that membership "should aim to reflect the major interested parties who support the PEFC" as well as geographical spread, scale of harvesting rates and gender balance.¹⁶⁴ "Should" in the context of PEFC's normative documents is understood as indicating provisions, which are "expected to be implemented", but are not mandatory (in which case "shall" is used).¹⁶⁵ The voluntary nature of this arrangement allows PEFC considerable latitude regarding interest representation and forest owners and industrial interests predominate (see Table 6.1 below). The institution itself states that: "the participatory elements in the PEFC framework are applied predominantly at the national and sub-national level."¹⁶⁶ Here, it is only a recommendation, and not mandatory, that all "participating interested parties be

provided a fair, ongoing and appropriate possibility to influence the decision making” of the national governing body.¹⁶⁷

Table 6.1 List of interests represented on the Board of Directors of PEFC Council

2003		2006	
<i>Name, position</i>	<i>Interest</i>	<i>Name, position</i>	<i>Interest</i>
Josef Barton-Dobenin, Director	Forest owners	Björn Andrén, Director	Forest industry (Forest products)
Christian Brawenz, Second Vice Chairman	Forest owners	Kathy Bradley, Director	Forest industry (Paper industry association)
Michael Clark, Director	Forest industry (Paper industry)	Michael Clark, Chairman	Forest industry (Paper industry)
Phil Davies, Director	Union	Hans Drielsma, Director	Forest owners (Government)
Sébastien Genest, Director	Environmental NGO	Andrey Frolov, Director	Forest industry (Manufacturing)
Dr. Hans Köpp, Director	Environmental NGO	Sébastien Genest, Director	Environmental NGO
Ulf Österblom, Director	Forest owners	Dr. Hans Köpp, Director	Environmental NGO
Henri Plauche-Gillon, Chairman	Forest owners	Luis Costa Leal, Director	Forest industry (Pulp industry)
Luis Costa Leal, Director	Forest industry (Pulp industry)	William Luddy, Director	Labour
Robert Simpson, Director	Forest owners	Felix Montecuccoli, Director	Forest owners
Hannu Valtanen, First Vice Chairman	Forest industry (Industry association)	Antti Sahi, First Vice Chairman	Forest owners
Marian Freiherr von Gravenreuth, Director	Forest Owners	Bob Simpson, Second Vice Chairman	Forest owners
Paul Wooding, Director	Forest industry (Forest products)	Paul Wooding, Director	Forest industry (Forest products)

Sources: *PEFCC Newsletter 17*, pp. 5-8, *PEFC news 22*, p. 6, *Annual Review 2005*, p. 10, *Annual Review 2006*, pp. 12-13.

Forestry interests are responsible for inviting “national organisations representing all relevant interested parties” to form the basis for a PEFC national governing body.¹⁶⁸ Country schemes have their own preferences regarding which stakeholders should participate in standards setting. This can include government

(see Table 6.2 also below). Standards must subsequently be reviewed in a participatory manner.¹⁶⁹ Claims that national standards have been approved with the participation of major NGOs have been challenged by NGO critics as a “misrepresentation of reality”, and that “there is very little proven support for the PEFC in any of the countries which either have, or are developing standards and/or schemes.”¹⁷⁰ There do not seem to be any participatory or consultation arrangements associated with the pilot testing of standards.¹⁷¹

Table 6.2 Sectors listed as being included in national schemes from Europe, South America and Australasia

Lithuania	Brazil	Australia
Private forest owners	Producers	Forest industries
NGOs	Consumers	Private forest owners
State forest service	Governments (i.e. Federal and state)	Public forest owners
Forest industries	NGOs	Governments (i.e. Federal and state)
Research institutions	Other (universities and research institutions)	Unions
		Community

Source: *PEFCC News Special* (December 2002), pp. 4-7

Participation in certification assessments is confined largely to the auditing phase of the certification process, when the certification body examines the conformity of forest management activities against the forest management standard. At this point the certifier is obliged to “include relevant information from external parties (e.g. government agencies, community groups, conservations organizations [sic], etc.), as appropriate.”¹⁷²

Interviews

NGOs interviewed characterised their involvement in PEFC as “non-existent.”¹⁷³ At an international level there was no room for NGOs to become part of the PEFC Council other than as observers. The Board was only open to members of national governing bodies and even international organisations such as the ILO only

enjoyed observer status in the Council.¹⁷⁴ Some national schemes had been developed almost exclusively as a result of pressure from the private sector and the sawmill companies they supplied as well as big companies, who coordinated the development of the system largely in collaboration with management agencies.¹⁷⁵ The structures of national certification schemes mitigated any ability to influence their outcomes and it was as hard to have an influence now as in pre-PEFC days.¹⁷⁶ The motives underlying the scheme's creation had fundamentally affected its stakeholder composition.¹⁷⁷ NGO participation country-by-country ranged from "minimal to zero", and in the case of Europe, of the nine or ten major international NGOs, none were participating.¹⁷⁸ They were seen as "outsiders" within national PEFC schemes. Everybody else had already decided what the outcomes of negotiations would be, and NGO exclusion meant they had been reduced to a minority viewpoint.¹⁷⁹ It was wrong to describe PEFC as inclusive of environmental interests simply because it had national environmental NGOs participating.¹⁸⁰

A significant weakness of the system as a whole was the lack of stakeholder participation in both standards setting and the actual certification process. This was to be understood as the reason why certain groups did not want to be consulted.¹⁸¹ The problem was the difference between participation and actually being heard.¹⁸² Many forest management agencies talked extensively about participation but it was simply a mechanism to justify decisions that had already been made.¹⁸³ This was reflected in the treatment of indigenous interests. In one country the development of national criteria directly affecting indigenous people had occurred without including any representative associations or asking them to participate. The relevant organisations had to insist they be heard before they were

invited.¹⁸⁴ One informant noted that labour interests were represented on their national board, however.¹⁸⁵

Most business interests argued that NGOs were adequately included in the system, so long as it was understood that those groups that did participate did not refer to groups connected with FSC, such as WWF, Greenpeace and Friends of the Earth, and that the groups that were involved were “not as radical as the international ones.”¹⁸⁶ By deliberately excluding themselves from the PEFC, international NGOs were manufacturing an excuse so they could claim that the PEFC was not sufficiently representative.¹⁸⁷ NGO supporters of PEFC included national groups in France, Germany, Austria and elsewhere.¹⁸⁸

There were also admissions that some important groups had been omitted from the system, however. Consumer groups in particular, had not been adequately included in certification since its inception.¹⁸⁹ NGOs had been involved in the development of the intergovernmental criteria and indicators (C&I) processes before the establishment of PEFC. But NGOs had only withdrawn from PEFC because they had been pressured by other, mostly international, NGOs. Nevertheless, it was accepted that NGO criticisms weakened the system.¹⁹⁰

Business interests also noted the preponderance of forest owner, forest industry and forest-dependent trade representatives within the system.¹⁹¹ PEFC was essentially an initiative by the forest sector and forest owners, with a few other selected stakeholders taking part in the system.¹⁹² The system functioned as a means of ensuring active involvement in the coordination and development of joint positions, firstly on a national level, then regionally, subsequently on a European level, and ultimately internationally.¹⁹³ It was forest owners rather than large industrial interests that had been central to pushing PEFC initially in

Europe: they were at the heart of PEFC; the participation of all other interests was peripheral.¹⁹⁴ However, small forest owners were less significant than the forest owner associations to which they belonged. They were running things, but were not really including their membership.¹⁹⁵ Such private forest owner interests could be described as “the political arm of the PEFC.”¹⁹⁶

Some interviewees from the third group of informants supported the idea of the centrality of forest owners to the PEFC system. They were the ones who had been sufficiently motivated to protest against the German printing houses.¹⁹⁷ NGOs had a totally different perspective, and should be understood as “outsiders who are looking in on the forests.”¹⁹⁸ One interviewee from the third group of informants was particularly unhappy with the closeness of the relationship between certain governments and forest owner interests, and the extent of NGO inclusion in PEFC. The exclusive nature of this relationship had led their regional government to determine not to involve itself in the system.¹⁹⁹

Evaluation

On an international level, the Board of Directors can claim to include the key three economic, social and environmental sectors, but the level of inclusion, based on the figures from 2003 and 2006 is uneven (see Equality below). On the economic side, the range of interests is excellent and includes public and private forest owners both large and small, as well as industry associations, forest product producers, down stream processors and manufacturers. On the social side, indigenous interests are entirely absent. Labour interests are present, but they represent the entire social sector and occupy only one seat at the table. Environmental groups are slightly better off, with two nationally focussed representatives, but there are no major international environmental NGOs. There

is also no representation of developing country interests on the Board, and only one Director is from the southern hemisphere (Australia). Board membership should also reflect geographical spread and gender balance, according to the Council Statutes, but it does not. The General Assembly contains an even weaker spread of interests, mostly attributable to its membership structure, which permits only national governing bodies to actively participate, but on behalf of the country schemes, not stakeholder sectors. There is no better representation of interests in the associate category of membership, with neither labour nor environmental NGOs, and only foresters' associations complementing the usual mix of non-state economic interests. However, due to the endorsement of their schemes in recent years, there is some developing country representation within the General Assembly.

On a national level, the PEFC Council Statutes militate against any interest other than forest owners or forest industry initiating the development of the country scheme. The national governing bodies themselves, once formed, should represent diverse interests, but this is not mandatory. It is only at the level of standards setting that the PEFC Council Statutes oblige the national governing bodies to invite all relevant interested parties to participate. But even here it is unclear in this wording, if it is the act of inviting, rather than the participation itself, which is mandatory. In terms of the certification processes themselves, interests are only represented in so far as they can provide information relevant to the assessment of conformity of forest management activities to the standard. Here, the requirements are further confused by the fact that in a number of cases certificates were initially issued without such requirements. While the representation of forestry interests across the system is very high, the degree of

inclusion of other stakeholders is very low. In view of these two extremes, and the unsatisfactory developing country representation, PEFC's inclusiveness is **low**.

Equality

PEFC's imbalance in stakeholder representation, it is argued, provides limited opportunities for minority interests to influence rule making within the system, particularly in terms of compliance and standard implementation.²⁰⁰ As early as 1998 European NGOs indicated they could not support the emerging PEFC system if it did not make "structural changes to ensure the equal input of other sectors."²⁰¹ Not surprisingly, this has led environmental NGOs in particular to make a number of broader claims concerning the system.²⁰² By ignoring environmental NGOs and other stakeholders it has been argued that the scheme may have placed its reputation at risk.²⁰³

Another major aspect of contention, which goes beyond the environmental NGO sector is the status accorded to indigenous interests within the PEFC system. After the withdrawal of environmental NGOs from the Finnish certification scheme, for example, the Sámi and state forest manager Metsähallitus came into conflict after the former claimed they had not been sufficiently listened to in the process of defining the standard.²⁰⁴ The PEFC system as a whole came into conflict with the World Bank on this matter, on account of the Bank's lending policies, which did not permit PEFC to receive grants to expand its certification activities on account of its failure to acknowledge indigenous peoples' rights.²⁰⁵

In December 2005, the Belgian Government, following other EU member countries, initiated a process to evaluate the legality and sustainability of certified forest products which feeding into its public procurement programme. An expert commission was convened to determine which certification schemes would be

accepted under the policy. Some (but not all) PEFC scheme were a source of concern on account of the low extent to which the rights of indigenous peoples were accepted by the schemes.²⁰⁶ PEFC Council published a position paper regarding indigenous people in December 2005.²⁰⁷ The policy acknowledged the various intergovernmental processes for SFM, including the Helsinki and Montréal processes, as well as the role of the Ministerial Conference on the Protection of Forests in Europe. These intergovernmental arrangements, in combination with the member schemes' own national policy frameworks led the Council to conclude that indigenous peoples were already accounted for in PEFC's processes.²⁰⁸ The development of this position at the executive level, it was stated, was to provide the framework for subsequent national policies.²⁰⁹

Interviews

NGOs presented a detailed analysis of what they perceived to be the lack of equality within the PEFC system, a problem they identified as affecting youth and indigenous people as well as environmental groups.²¹⁰ Unless NGOs had real power, and the unequal weighting of different interests was resolved, there was no point in participation, and their involvement would be misused, as had been borne out in some PEFC initiatives.²¹¹ PEFC's governance structures failed to sufficiently acknowledge indigenous peoples' rights. The issue of forest peoples' rights had been a minor issue in Europe when the scheme had started, but problems had subsequently escalated in Sweden, where the differences between PEFC and FSC on this matter were substantial. As PEFC expanded into southern countries, this weakness would become more apparent.²¹²

Business interviewees mostly disagreed with the NGO complaint that PEFC discriminated against indigenous peoples and environment groups.²¹³ One

business interest did comment however, that PEFC's governance structures did not provide the conditions for weaker stakeholders to feel at ease within the system, and that was why they were not participating.²¹⁴ Landowners by way of contrast saw PEFC as providing for "a more balanced opportunity to negotiate a standard that protects their private property rights than the FSC system delivers."²¹⁵ Another business informant thought this might be attributable to the fact that forest owners felt that the PEFC system would provide them with a multi-stakeholder process, which protected private property rights. They pointed to both the Sustainable Forestry Initiative and the Australian Forestry Standard as being motivated by these considerations. For both large and small owners the decision to be involved in a given system all came down to the politics of the scheme.²¹⁶ Another informant echoed this viewpoint, indicating that an equal say was important, but they objected to economic interests being placed in a situation where their voice was structurally counterbalanced as in the FSC system. For them, such a system did not deliver an equal say for economic interests.²¹⁷

One interviewee from the third group of informants provided an alternative perspective. They felt that PEFC looked at things in an overly economic way. The system allowed for the maximisation of economic returns, which was nice in principle, but it had minimised the environmental effort required in gaining such returns.²¹⁸

Evaluation

It is undeniable that forest owners and the forest industry played the most significant role in the establishment of PEFC. Many of the scholarly sources, as well as most of those stakeholders interviewed in this study, acknowledge the dominant role played by these interests within the system. Where other

stakeholders do play a role within the system's participatory structures, it is limited. Forest owner- and forest industry interests initiate the development of national schemes, and even if other stakeholders are invited to participate in national governing bodies and standards setting, it is on an unequal footing. This is particularly the case with indigenous peoples in the Nordic countries. Equality in the system is therefore **low**.

Resources

Information regarding PEFC's financial activities is not publicly available on its website, and no response was made to a request for financial information during the course of this study (see Transparency below).²¹⁹ Commenting on the international funding situation for PEFC, one business interviewee observed that financing possibilities had been "very poor", and membership fees remained the only source of income. Even after seven years of existence the global budget was roughly half a million Euros, which was expected to run the whole entity.²²⁰ Forest owner associations from supporting countries were identified as being one of PEFC's main funding sources.²²¹

One interviewee from the third group of informants provided some detail regarding the financial arrangements associated with their national scheme. Funding had remained at a relatively constant level over the life of the scheme, and was derived from a forest industry fund, the purpose of which was to promote the use of wood. The body raised voluntary contributions from forest owners and wood buyers and had provided funds to the scheme annually. A very small amount of income, about 1%, was generated from charging for the materials associated with the issue of PEFC logo licenses; this was not a user's fee, but covered the costs of producing CDs, documents, and so forth. In addition there

were member fees levied on membership organisations. In terms of participation, the general rule was that stakeholders funded their own attendance, although there were some exceptions; the chairman received an annual fixed fee (but the rest of the Board paid their own expenses), and some travel costs were provided to members far from the capital. The costs associated with the two standards setting processes had been borne individually, while the secretariat of the scheme had managed the facilitation of the process.²²²

Interviews

No participants interviewed received funding to take part in any of the system's standards setting or governance processes. NGOs and business interests all confirmed they funded their own participation.²²³

A number of NGOs stressed the cost in terms of time and money to participate in PEFC either directly or indirectly. One national NGO commented that they had employed a volunteer to participate in standards setting, and their hours, if remunerated, would have amounted to several thousand Euros.²²⁴ One national NGO observed that indigenous interests had to go to environment groups for funding when they had wanted to engage with PEFC.²²⁵ The view was expressed that the Programme had a greater range of resources at its disposal than FSC, by comparison.²²⁶

One of the international NGO representatives interviewed explained that the expenditure of resources regarding PEFC had been at a level that was concerned mainly with analysing the Programme's governance structures and providing external commentary. Funds to undertake this work had been provided by foundations or governments interested in certification. They observed however that time spent on one issue area inevitably reduced the money and time available

for campaigners or individuals to work on other issues.²²⁷ A second international NGO commented that while they had received no support from PEFC, they had decided not to participate anyway, until some fundamental changes were made.²²⁸ A third international NGO informant commented that earlier in the scheme's existence their organisation had had been running a certification campaign in Europe, which had created a lot of tension between PEFC and FSC. Having finished the campaign, and having made it clear to certification users and customers that the two systems were not the same, the decision was made to concentrate on building and supporting the FSC. With the limited resources available it had been determined that the time and effort required to engage with and influence PEFC to restructure itself as profoundly as NGOs thought necessary was not worth the investment. This was particularly the case when there was no guarantee that such efforts would deliver anything anyway.²²⁹

Business informants confirmed that there had been support from industry to underwrite PEFC. One interviewee commented that industry groups had provided technical support in the development of the Programme's chain of custody standard, because it needed industry expertise. This was because this was industry's normal way of working; as a supporter of certification it could not keep out of the forest debate and just passively use the system. In addition to this direct support, industry had also had its own expenses in terms of time and money, such as attending PEFC General Assemblies, and hiring consultants.²³⁰ Another indicated their organisation had invested money and time in the PEFC process.²³¹

Evaluation

The evaluation of PEFC's provision of resources does not refer to its sources of general income, but rather the amount of funding, or general capacity building it

undertakes to encourage various interests to participate in the Programme. As a rule, PEFC does not provide resources for the different sectors to participate internationally and there does not appear to be any mechanism to fund participation in PEFC Council. Anecdotally, some key members are funded to participate in meetings at the national level, but more marginalised interests, such as indigenous people, must rely on support from external sources, rather than the institution itself, to have their interests represented. The provision of resources to participate in PEFC is **low**.

Organisational Responsibility

Accountability

Although the General Assembly is identified as the highest body of the PEFC Council, decisions that are “binding to the PEFC Council financially or politically” are the responsibility of the Board.²³²

Accreditation procedures within the PEFC system occur on the national level. A problem identified with this approach is that national bodies accredit both systems and performance-based standards. This can undermine the value of schemes within the system that use performance-based standards since a scheme, which may use the ISO 14000 Series, systems-based approach, such as Norway, can certify all national forests in one stroke, yet enjoy the same status within the Programme as performance-based schemes.²³³ Furthermore the assessment of such region-wide certificates can be based on random sampling rather than comprehensive audits.²³⁴ NGOs have criticised this approach in terms of the degree of commitment that can be expected from individual owners, and they question the legality of such forms of “passive consent” to certification.²³⁵

There are also historical problems regarding the lack of public consultation and availability of public documentation associated with schemes that were accredited before 2005. Although procedures put into place by PEFC in this year to address this problem stipulated that compliance by forest certification schemes would be audited at subsequent annual surveillance visits, it is not specified whether relevant interests would be re-contacted for consultation after what was, in some instances, a considerable lapse of time.²³⁶ Finland fell into this category, and NGO commentators claim that most of the country was certified before accreditation procedures were adopted.²³⁷

As an institution, PEFC did not develop any of the base criteria of member schemes, except to determine initially, when the scheme was still essentially European, that certification would be based on the C&I of the Minsiterial Conferences of Helsinki, 1993 and Lisbon, 1998.²³⁸ These developed C&I that eventually informed the creation of the Pan-European Operational Level Guidelines (PEOLG).²³⁹ The decision to follow these guidelines as the underlying framework for PEFC occurred before most interested parties had the opportunity to consent to their use.²⁴⁰ Environmental and social interests in particular had already expressed reservations regarding the content of the PEOLG even before they were adopted and adapted by PEFC.²⁴¹

Interviews

NGOs analysed accountability in certification as being particularly important for consumers, who were looking for a credible statement demonstrating that timber had not been procured according to the needs of economic and industrial interests alone. For a system to be credible, it needed more than just these interests to be involved in the development of a scheme from the very beginning.²⁴² Several

interviewees expressed concerns that PEFC had used the involvement of their organisation as a means of endorsing the Programme and standards setting, without actually taking their views into account. This had made them all extremely cautious about having anything to do with the system in the future, and in their dealings with those holding official positions.²⁴³ The system was also heavily criticised by NGOs for a lack of performance related obligations on landowners, which was seen as impacting on their accountability and sense of responsibility for their actions.²⁴⁴

One NGO informant conceded that the role played by NGOs in certification had not initially been an entirely responsible one and that NGOs were partly to be held to account for the creation of PEFC. WWF had set huge targets for certified forest by 2005, without realising that that 50% of Europe's forests were in the hands of small private forest owners, not big corporations. These small forest owners saw the proposed targets as an enormous threat, not as a means of improving their forest management. WWF had engaged solely with the larger producers, aggregated within buyers' groups. This was an essentially "top down" approach that had failed to consider the views of small forest owners and although not intentional, had generated a huge degree of antipathy. Had they included the small forest owners, "PEFC might not even have been born."²⁴⁵

Business interests ventured a range of views on the degree of accountability with the PEFC system. One commented that forest interests did not always consider the NGO community to be accountable because they were not actually responsible for implementing anything.²⁴⁶ Another raised a number of issues regarding the role of the certifier and the processes of accreditation. As part of a national scheme's endorsement by the PEFC Council it was necessary to undergo

an independent evaluation of its procedural arrangements, which are checked by a consultant. The interviewee expressed concerns that previously these consultants had been quite clearly linked to some of the national schemes, not necessarily with the particular country programme being evaluated, but with the PEFC system in some way. This had been quite common before PEFC's major revision, and represented a potential for conflict of interest. Another problem that was still unresolved at the time of the interview was how the PEFC intended to deal with certification bodies that had not been accredited. Previously, the system had not needed accreditation, but now it did. It was unclear what was required for the former certificates that had been issued by certifiers who had not been accredited, nor what would happen if the certifier failed to obtain accreditation. In a final, and uncorroborated comment, this interviewee claimed that a number of national schemes had presented PEFC as precondition of membership to the EU in their dealings with countries in Eastern Europe. This had left foresters in Eastern Europe believing they had no choice but to adopt PEFC.²⁴⁷

One informant from the third group of subjects noted the tensions underlying government involvement in the business of forest certification, which was essentially a non-governmental activity, but they saw the level of governmental involvement in the PEFC system as perfectly acceptable.²⁴⁸

Interviewees from all three sectors expressed misgivings about regional or country level certification. Because PEFC certified by area and not one forest exclusively, that this created the situation where forest owners who did not care about certification could still end up being certified without knowing it.²⁴⁹ This concern was raised in relation to PEFC certification in both Russia and Finland.²⁵⁰

Evaluation

The analysis of PEFC's institutional accountability is usefully informed by looking at its activities in vertical and horizontal terms. As far as vertical accountability is concerned (i.e. the extent to which it is answerable to those that have delegated their responsibility to the institution), PEFC in some instances may be overly close to some interests, such as government bodies and their agents. A similar observation might be made regarding PEFC's relationship with forest owners and forest industry interests. Certifiers, supposedly independent agents, are also close to the system on account of the provision of consultancy services relating to the evaluation of country schemes for endorsement. There are also ongoing and unresolved problems relating to certifiers who were not accredited at the time they granted certificates. Whilst these may not be matters of concern for most of the institution's internal constituents, this has affected external perceptions, and consequently PEFC's horizontal accountability (that is, the degree of accountability demonstrated to those who will be affected by the actions taken by the institution and its affiliates). PEFC has demonstrated a degree of antipathy, if not outright hostility, towards (external) international NGOs, and national NGOs who do not support its activities. In relation to indigenous interests, who like most environmental NGOs also remain external parties, some PEFC affiliated schemes have not demonstrated a particularly responsible, or responsive attitude. Nationally, a number of PEFC's member schemes certify entire forest regions and this has resulted in forest owners entering the system who have been either unwillingly, or unwittingly certified. This issue also affects the accountability of forest owners as a sector, and it is unclear what effort has been made to address this problem by either forest owner associations or PEFC.

PEFC seems to be more accountable vertically than horizontally -- as are many 'traditional' agencies. But even PEFC's vertical accountability is weak -- particularly given the highly devolved methods of oversight whereby most responsibility for standard development and implementation is at the national level. Given these issues the degree of accountability within the PEFC system is considered to be **low**.

Transparency

A guiding principle adopted during the early stages of PEFC's formation was that the system should be developed transparently.²⁵¹ On a national level, the written procedures of standards development forums must be available to interested parties if requested.²⁵² Transparency within the context of standards setting refers to communicating the commencement of the standard setting process, and by making information on the development process available to interested parties through such media as the Internet.²⁵³ Standards must subsequently be reviewed in a "fair and transparent" manner.²⁵⁴ Summaries of certification assessments must also be made available to the public, as required under the provisions of the particular certification scheme. International public consultation lasts for 60 days and is based on advertising the scheme on the PEFC web site and soliciting comments.²⁵⁵

Some of PEFC's normative requirements, while emphasising transparency, are either vague regarding implementation, or restrictive in application. In the case of the former, whilst the views of all those who are invited to participate in the creation of national schemes and standards are expected to be "documented and considered in an open and transparent way", it is not specified if divergent views must be addressed.²⁵⁶ In the case of latter, it is true that the minutes arising from

General Assemblies are available for scrutiny, but only to members and “parties having a legitimate interest”, and only as extracts approved by the Chairman and Secretary General.²⁵⁷ Financial information is not publicly available (see Resources above).

Scholars note that NGOs consider PEFC to be lacking in transparency.²⁵⁸ NGO commentators have themselves pointed out that a lack of transparency was identified as early as 1999 by consultants engaged by the emerging system as an “Achille’s heel” that needed to be resolved.²⁵⁹

Interviews

NGOs saw that there were substantial weaknesses in PEFC regarding transparency.²⁶⁰ Three interviewees, speaking from both national and international viewpoints, expressed concerns that the PEFC system was neither open nor transparent. The lack of public availability of documentation, the opacity of governance structures, and the unclear decision making processes were the main areas of complaint.²⁶¹ Responsible certification instruments should fulfil the requirements of openness and transparency as a minimum.²⁶² Transparency was important because there always came a point in a given process when people would disagree, and people needed a clear understanding of what to do, and what the aim of the process was in such a situation, and what their rights and obligations were.²⁶³ PEFC had made commitments to improving its consultation and participation processes, and its chain of custody arrangements, but the materials were not easily accessible or publicly available. This made it difficult to assess where PEFC stood on anything, or whether past failings had really been addressed.²⁶⁴ Another informant observed that PEFC had a policy “high up” that it would not talk to anybody it considered critical of the system. They thought the

system had a deliberate policy of diversion, or not responding, to anything properly.²⁶⁵

Business informants had various views regarding the transparency of the system. One, commenting on the transparency of the national standard setting procedures noted that standards were developed inside schemes, which represented forest owners. It was true that the standard was open for consultation, and available for at least some time for the public to make comments. But the ultimate decision about what to incorporate from this feedback rested with the scheme itself, and how it dealt with comments was not at all clear.²⁶⁶ A second comment was made regarding the extent to which PEFC publicised its activities, which, it was admitted, might be seen as a weakness of the system.²⁶⁷

One informant from the third group believed that the priority for certification was that decisions were made in an open manner but this was delivered by the broader, national, “political process.”²⁶⁸ This view was echoed by another member of the third group of informants, who believed that the democratic mechanisms of society in general provided sufficient transparency in decision making; stakeholders participating in certification could trust these to deliver what was required.²⁶⁹ However, another interviewee admitted that the lack of clarity regarding who was ultimately responsible for the approval and justification of decisions made within PEFC was a disadvantage of the system.²⁷⁰

Evaluation

It could not be said that the initial development of PEFC occurred in a particularly open, or transparent manner. This was recognised as a problem by some of PEFC’s original members. Some information is not publicly available at all (such as financial matters), and much of what goes on inside the system’s internal

participatory structures, such as meetings of the Board of Directors and General Assemblies, continues to be opaque. This opacity may be partly attributable to the fact that transparency within the PEFC system has a particular definitional context, and refers more to the process of issuing public information, than the openness of the system's structures and processes to public scrutiny. NGOs interpret its failings in this broader sense. Here the critique relates to the availability and quality of information, rather than timeliness. However, even in this more limited interpretation, PEFC has been criticised by supporters as well as opponents for failing to adequately publicise its activities. Information on some of the institution's activities is available through its newsletters and on its website. Overall, however, transparency within PEFC is determined to be **low**.

Decision Making

Democracy

The observation has been made that "PEFC relies on the democratic procedures where the society at large defines the rights and duties of different forest users and implements them through normative regulations."²⁷¹ The notion that PEFC considers itself democratically legitimated by such external arrangements deserves some consideration in the light of how democracy is exercised internally. Within the General Assembly enfranchised members have between one and three votes commensurate with the annual cutting rates of less than 10 million cubic metres, between 10 and 30 million m³, and more than 30 million m³.²⁷² This approach to decision making has been criticised as rendering the system undemocratic, as it disproportionately favours large producers. This is compounded by the fact that forest interests also predominate at a Board level where decisions are reached on the basis of simple majority.²⁷³ Non-forestry

interests are also in the minority in national decision making bodies, and their involvement occurs at a relatively late stage of the process.²⁷⁴ The procedures adopted within PEFC have been defended by PEFC supporters, and contrasted with those used within the FSC, which has been accused of creating an “artificial democracy” amongst participating interests.²⁷⁵

Interviews

For NGOs, because the system favoured the forestry sector (forest owners and the forest industry) the manner in which decisions were made were totally weighted in their direction.²⁷⁶ One informant considered it a waste of time to sit in so-called consensus processes that merely resulted in the production of minority reports stating the NGO view, but with little effect.²⁷⁷ Another felt that the PEFC could be made to work if the procedures underlying the establishment of standards setting processes ensured stakeholder balance. But currently, the process was clearly unbalanced: forest owners set the rules and the forest sector as a whole dominated the process; they paid the consultants and invited people “to get a little buy in and legitimacy.”²⁷⁸ In one national scheme, for example, although decisions were usually taken by consensus, this had proved unworkable for NGOs, because they were expected to support the national certification programme and its conception of forest management in order to participate.²⁷⁹

Business informants accepted that NGOs would be more likely to participate in PEFC if they were given greater voting rights, and that final decisions were made in “rather small committees.”²⁸⁰ Furthermore, PEFC was built on the Helsinki process, which had already addressed these issues, so there was no need to reinvent the wheel. In contrast to PEFC, FSC’s decision making processes directly

contradicted the constitutional legitimacy of electoral decision making.²⁸¹ Such processes constituted a “strange image of democracy.”²⁸²

This view from within the business sector was echoed by one informant from the third group of subjects, who questioned the fundamental validity of increasing NGO democratic rights. Only those who were committed to forestry had the right to decide what was good for the forest, not NGOs. Environmental and social groups had that right in the FSC system, but this was not the case in the real world, because it was ultimately the owners who were responsible for undertaking forestry activities. The democratic processes within the nation state inherently addressed the divergent views in society, and nothing more was required.²⁸³

Evaluation

PEFC displays a clear institutional preference for leaving democracy within the confines of the nation-state. Some interviewees in the study expressed the deeply held fear that alternative models would give NGOs excessive powers, create uncertainty, and undermine the rights of forest owners. A common view amongst interests supportive of PEFC was that there were already sufficient safeguards in the governmental regulatory environment for stakeholders to influence decision making regarding forest management. Governmental processes already fulfilled the social requirements of SFM (see also behaviour change below). Such views were clearly influential during the formation of PEFC, and have affected its democratic style ever since.

Internationally, when non-forestry interests are accorded the right to vote, the combined social and environmental forces are unable to outvote those representing economic interests. International voting procedures also mean that large forest producers outweigh smaller interests. Across its national schemes,

PEFC publicly promotes itself as a ‘multi-stakeholder’. Institutionally, however, the stakeholders making up the divergent interests associated with SFM do not enjoy the same ability to exercise powers of decision making within the system. This undermines the democratic functionality of multi-stakeholder processes of decision making when they are utilised. It is not surprising that certain interests have expressed their frustration with these arrangements, whilst others are more than satisfied. Currently, some of those dissatisfied with the standards developed by the various national schemes (indigenous and environmental interests) tend to exercise their democratic rights in the public domain through protest and dissent, rather than inside the institution.

Consequently much of the forest discourse within the system has been pre-determined and debate, understood as the free exchange of views for the mutual benefit of all, plays very little role in decision making. The democratic legitimacy of PEFC is therefore open to challenge. But the challenge to PEFC’s legitimacy is not about the intrinsic worth of deliberative versus aggregative democracy. The problem is rather that PEFC’s democratic processes are not seen as neutral, and participants are treated -- and heeded -- differently, resulting in divergent levels of trust in decision making authority.²⁸⁴ The opportunity for democracy to flourish in such an environment is **low**.

Agreement

Unless stated in the Statutes otherwise, decisions in the General Assembly are made by a simple majority of votes.²⁸⁵ Voting within the Board of Directors is also on a simple majority basis and may be exercised by email.²⁸⁶ The Executive Committee, which sits under the Board of Directors, does not have any formal mechanisms for reaching agreement.²⁸⁷

It is interesting to note in contrast to the majority voting associated with the PEFC Council, that the process of standards setting at the national level -- once it has been initiated by forestry interests -- is on the basis of consensus.²⁸⁸ National forums are obliged to develop their own written procedures for the formative, “consensus building” stage of national standards development.²⁸⁹ The definition of consensus within the PEFC system follows that of ISO.²⁹⁰ Approval of the standards is also based on consensus.²⁹¹ The validity of this claim has been challenged by NGO commentators who claim “publicity material cites organisations as being part of a consensus, when in fact they were not” (see comments provided by informants immediately below, and under Dispute Settlement).²⁹²

Once the national body has developed the final draft of national standards, they are distributed nationally as part of a formal process of consultation.²⁹³ International consultation occurs after the national scheme has been submitted for assessment and an impartial consultant, with no vested interest has been engaged. The applicant national body “actively requests comments from interested groups”, which are passed on to the consultant. The PEFC Council encourages everyone with an interest to provide comments to the consultant.²⁹⁴ Once they have been developed and assessed, national schemes are endorsed internationally by a vote requiring two-thirds majority firstly by the Board and subsequently by the General Assembly.²⁹⁵

Interviews

Comments on how agreements were reached in the PEFC system concerned both voting and consensus, but had little to do with procedural mechanics, and more to do with politics. One NGO pointed out that there was a problem with the voting

system internationally, as NGOs could only ever be associate members, and had no voting power.²⁹⁶ Similar views were expressed by another interviewee, who added that neither social nor environmental stakeholders had any formal power on any level of governance within the PEFC because of its voting arrangements. They noted that PEFC said it wanted environmental and social stakeholders to participate, and acknowledged that the scheme had met, for example, with labour interests to this end. But there had as yet been no changes to any of the voting procedures.²⁹⁷ The problem with PEFC was that “somebody else” always made the final decisions and that NGOs had lost their input by that stage.²⁹⁸ In their country, according to one informant, there was no consensus and the process was always majority rule.²⁹⁹ However, a further interviewee pointed to the Stock-Dove process in Sweden as a “different dialogue” between PEFC and FSC interests, and represented something PEFC should learn from.³⁰⁰

Several business interviewees commented on the nature of decision making within PEFC and FSC. One argued that the structures of both PEFC and FSC were open to influence. Decisions were made differently in each system, but in both cases the ground rules affected the nature of the decisions made.³⁰¹ Another went so far as to claim that one *raison d'être* for the PEFC was in fact to resist the new, shared decision making processes within the FSC system. If the discussion on certification had remained confined to technical matters of forest management the differences between the varying interests would probably have been resolved. But views as to whether NGOs and other groups had the right to decide if forest management was good or not was an underlying problem. Groups that wanted to keep such processes to themselves largely retained the decision making powers.³⁰²

An interviewee from the third group commented that the differences between private forest owners and NGOs as to how reach agreement were both philosophical and political, and almost irreconcilable.³⁰³

Evaluation

PEFC contains a range of procedures for reaching agreement. There is some use of qualified majority voting on an international level, in the case of endorsing national schemes, but this method of agreement is largely a legislative requirement under PEFC's articles of incorporation. Generally speaking, PEFC functions on a majority voting system internationally, clearly defined in the rules governing the General Assembly and the Board of Directors. International bodies, which are not the national governing bodies of the various member schemes, have no procedural role in reaching agreement (see Equality and Democracy above). On a national level, there appears to be some variation in how national governing bodies function in terms of reaching agreement. There is also a lack of clarity on the exact definition and function of consensus within the different standard setting processes of member schemes, even if consensus is formally defined at the international level. An otherwise high degree of clarity at the international level regarding methods of agreement is offset by inconsistencies at the national level, resulting in a **medium** score.

Dispute Settlement

According to PEFC, "[t]he right for appeals and appropriate grievance procedures related to the implementation of the certification schemes, ensures fair and impartial scheme implementation and certification."³⁰⁴ All appeals, complaints and dispute procedures are couched within PEFC's normative documents in the

context of national certification schemes. There do not appear to be any formal international mechanisms. National stakeholder forums associated with standards development are expected to have written procedures outlining an appeal mechanism for impartially dealing with any procedural or substantive complaints that arise.³⁰⁵ The same procedures apply to developing chain of custody standards.³⁰⁶ Both the national governing entities and certification enterprises are also required to develop dispute settlement bodies, or have procedures for developing such bodies on an ad hoc basis, to address certification-related problems.³⁰⁷

NGOs however have criticised PEFC for the absence of complaints procedures and dispute resolution mechanisms.³⁰⁸ Although there is a mandatory emphasis on consensus building in standards development and the views of dissenting voices must be recorded, their concerns do not have to be addressed. This kind of procedural ambiguity makes dispute resolution, even where such processes exist, difficult to implement effectively.³⁰⁹

Interviews

Three NGOs discussed the ideal and the reality of dispute settlement within their national systems. One expressed the view that it was a very important part of any governance system to have conflict resolution and complaints mechanisms in place; without them, it could not function.³¹⁰ One national NGO informant commented that during the standards development process they had submitted a letter of complaint to the chairperson of the scheme seeking a response on a number of substantive issues, but it was neither circulated, nor its contents addressed.³¹¹ Another discussed the problems indigenous people experienced in having any of their grievances addressed within the PEFC programme in the same

country, either at the level of the scheme itself, or via its accredited certifiers. It had “fine stakeholder processes” for consulting with indigenous people about land use and what they were planning, and what their opinions were, but they actually had no powers to stop anything. Such processes existed solely for PEFC “to be able to say they have a process.” They felt that after years of dialogue there should be some understanding of indigenous grievances, but in reality forestry interests “did not want to know” and simply disregarded their views.³¹² Concerns were also expressed regarding the extent to which both the certification scheme and the certifiers implemented the requirements for dispute settlement arising from stakeholder consultation. One NGO reported that there had been so many complaints raised against large forestry companies in their country by local communities and indigenous stakeholders that people now considered that the companies were basically self-certifying. This interviewee had tried instigating grievance mechanisms against one of the companies, but there had been no detectable changes. They commented that the standard looked very good on paper but nothing was accomplished practically.³¹³ Another informant was of the opinion that the decision making processes within the system set up inherent conflicts.³¹⁴

One interviewee from the third group of subjects provided an anecdotal observation on how disputes were settled within the PEFC system. Within their national scheme conflicts regarding the system, or relating to standards setting, were addressed through the one person-one vote procedures of the board and the national certification council. Since NGOs had chosen not participate in the development of the national system the problem of economic and environmental groups needing to resolve discussions by such means had not arisen. Mitigation of

conflict through any other means was neither constitutionally nor legally permitted for associations in their country. The membership as a whole constituted the highest decision making body, and issues that needed to be resolved were determined by balloting the members.³¹⁵ According to the one business interviewee who did comment on dispute settlement, the view was expressed that conflicts between interests were best resolved in the market.³¹⁶

Evaluation

The settlement of disputes in a formal sense occurs only at the national level within the PEFC system. National member schemes are obliged to create either dispute settlement bodies, or have other procedures, but it is unclear how effective these mechanisms really are, or in some cases if they have been used at all. A further problem may lie in the fact that complaints mechanisms are restricted to matters regarding standards setting, certification or implementation. The absence of any body to which complainants may take grievances concerning national governing bodies or the PEFC Council itself is also problematic. So too is the lack of clarity concerning what national governing bodies and the PEFC Council does once it has “considered” stakeholder concerns arising during the course of national standards setting, or national schemes’ accreditation. It seems more important in the PEFC system to be able to demonstrate the existence of dispute settlement mechanisms per se rather than have disputes settled. The ability of PEFC to settle disputes is **low**.

Implementation

Behaviour Change

Both forest governance scholars and NGO commentators challenge PEFC’s commitment to SFM. The system has been described as a “strategic move to

regain control over an issue area predominated by environmental interests and co-opt the discourse on forest certification.”³¹⁷

Having failed to achieve its objective of gaining EU-level support for forest owners, Europe’s forest industry set out to create a certification framework suitable for small forest owners, and against the FSC.³¹⁸ PEFC’s framers appeared initially to be reluctant to adopt any C&I.³¹⁹ However, as internal deliberations over the requirements for a certification system progressed, it was acknowledged that some guidelines were required as framework around which to develop national standards.³²⁰ However, the very value of using C&I processes as a basis for certified forest management activities is questioned by NGOs, as are the governmental processes, which gave rise to them. C&I have the value of improving communication and awareness of sustainable management, but it is argued they should be seen as being independent of certification or other quality assurance processes, and can only provide an “indicative reference.”³²¹ It has been further stressed that they should “not be used in isolation to determine sustainability in forest management.”³²² As early as 1997 in the IPF process it was recognised that “criteria and indicators are not performance standards for certifying management.”³²³ This intergovernmental view was echoed by NGOs in 2000, who reiterated that C&I processes were “neither an indication of nor a commitment to sustainable forest management.”³²⁴

Interviews

NGOs generally interpreted PEFC as a reaction, or counter-initiative, to FSC.³²⁵ One had reached the conclusion after seeing the first version of their country’s standard that the process had been designed to obscure the FSC. By muddying the waters people would be unable to tell the difference between the two schemes,

thus creating an opportunity for PEFC to play for time and see how things developed. This interviewee thought this strategy had been successful.³²⁶ Certification was a significant tool for achieving SFM, and various substitute systems, most of which had joined PEFC, had arisen with the intention of avoiding some of the more critical aspects of the original idea. The creation of national certification schemes was a way for industry to avoid dealing with international environmental groups and the stricter demands of such international systems as the FSC.³²⁷

Schemes within the PEFC system were also challenged regarding the level of their commitment to stakeholder consultation. Forest managers had put a lot of pressure on PEFC to ensure that there should be no public consultation regarding management at the individual forest unit level. This had changed after various European countries started implementing timber procurement policies. In the case of the UK PEFC faced the possibility of not being granted the status of sustainably produced timber on account of not including stakeholders, and it had had to make changes. This had resulted in a lot of changes on paper, its governance structures, standard setting processes and forest assessment, but these had yet to be turned into practice.³²⁸ Another commented that PEFC certification had changed nothing in terms of consultation in their country. They were simply told that logging would occur, and although they might be able to delay it by some months or possibly years, it still went ahead, and it was the managers, not the stakeholders, who decided how much to cut. Despite explaining that certain management practices impacted on their livelihoods, nothing changed.³²⁹ NGO interviewees were prepared to concede that at least in terms of forest owners,

attitudes had improved considerably from the early 'nineties, and that behaviour had changed.³³⁰

Improvements in forest owner behaviour notwithstanding, as it currently stood, PEFC remained a reactive instrument, established not with the aim of driving standards up, but to maintain the status quo.³³¹ Other informants expanded on this idea, referring to PEFC as a public relations exercise, and branded the system an example of “greenwash”, or in similar terms.³³² Finally, one NGO considered that because their particular national standard did not “require anything that would be above the requirements of the law”, this made the value of the certificate very low. Certification in this instance had become “a kind of obligatory national forest policy, which everybody gets, and nobody has to do anything.” Because PEFC was so well established nationally, NGOs could have no effect, even if they publicised “scandalous cases” on the Internet.³³³

Business informants preferred to analyse the system in terms of its contribution to what were perceived as “the well-established international norms of certification.”³³⁴ On this view, the differences between the standards of FSC and PEFC were not particularly great; it was the philosophy underlying the policy processes driving the schemes that was significant.³³⁵ Because PEFC was more “realistic” than FSC, managers had made commitments to improving their forests; legislative changes were therefore secondary.³³⁶ Another informant observed that they had suggested to PEFC that it should change the word “endorsement” in their title to “evaluation.” Use of the word endorsement, in their opinion, made the Programme look “like a rubber stamp.”³³⁷

One interviewee from the third group of informants commented that PEFC was proving to be a useful option for negotiating certification in private forests. The

advantage in having a system like PEFC was that it could provide a lot of certificates in a short amount of time, but the disadvantage was that there was very little obligation for scheme members to act in accordance with the rules.³³⁸ A second interviewee attributed the lack of change brought about by PEFC to concerns amongst landowners that they would lose money if they pushed the boundaries of SFM. They pointed to the difference in rules between FSC and PEFC regarding the retention of dead wood as a case in point.³³⁹ Another agreed that there was a lot of variation between the attitudes of different forest owners; there were some who threw every communication they received into the rubbish. This was not an issue for the system, however, but an issue for private forest owners to deal with.³⁴⁰

There was extensive debate within all three groups of informants as to whether the governmental C&I processes adopted by PEFC had either positively or negatively influenced the system. Views in the NGO group were generally critical, while business interests were positive. Informants from the third group of subjects provided widely discrepant views, one seeing the governmental C&I processes as having given the system a great deal of legitimacy and stakeholder buy-in, while a second accused PEFC of manipulating and subverting intergovernmental agreements to serve their own ends.³⁴¹ PEFC was seen to be not as good as FSC in terms of forest protection, and some uncertainty was expressed as to whether private forest owners would “change their habits” under PEFC. If they did not, then there would be no progress.³⁴²

Evaluation

The accusation is made both by commentators, and by a number of informants interviewed in this study, that PEFC was established as a reaction, or a counter-

initiative to FSC. Nevertheless there is also some recognition that private forest owners, for instance, have moved a long way from their original position of outright opposition to certification, to accepting it as a regulatory tool for forest management. The impact of PEFC on behavioural change should therefore be understood as coming, at least in the case of private landowners, from an extremely low base. The impact of PEFC on shaping the normative behaviour of forest owners should not be underestimated; but it is more a case that these interests have moved from a position of hostility to the idea of SFM as it is expressed in forest certification, to acceptance. Similarly, where PEFC schemes sit alongside existing codes of forest practice, they should be interpreted as articulating the status quo of forest management, rather than moving beyond it. These considerations contribute to a rating of **medium**.

Problem Solving

As the PEFC framework is based at the national level it has been argued that it should not be understood as a genuinely international scheme, but as “a mutual recognition framework through which national certification schemes can recognise each other as having equivalent standards.”³⁴³ Six pan-European criteria for SFM were elaborated at the 1998 Lisbon conference into guidelines (Pan European Operational Level Guidelines - PEOLG), which were intended as series of recommendations to promote sustainable management on a purely voluntary basis.³⁴⁴

The use of the C&I of the MCPFE process and the PEOLG was controversial, since they were adopted without seeking the advice of the MCPFE secretariat. Had the PEFC done so, it is likely it would have been advised that the criteria and indicators were not designed as the basis for a standards setting system, nor was the

process prepared to endorse or oppose any certification scheme.³⁴⁵ However, given the voluntary nature of such guidelines, PEFC initiatives are not bound to follow these C&I and the creation of rules and procedures is left to the discretion of national governing bodies.³⁴⁶ This strategic use of pre-existing C&I for PEFC's own ends has been interpreted as injecting confusion into the forest certification debate.³⁴⁷

NGOs have been deeply critical of PEFC's refusal to mandate performance-based standards across the system, and argue that: "there is very little evidence that systems-based schemes alone can lead to environmental improvement."³⁴⁸ Where PEFC schemes do have performance-based standards, it is further argued in some instances that they still do not adequately meet social and environmental criteria.³⁴⁹ The failure of the PEFC framework to address performance issues it is argued raises "serious doubts...about the capability of the system to bring about better forest management at the ground level."³⁵⁰

Interviews

NGO interviewees were negative regarding PEFC's general claims to deliver SFM. One felt that a central question was whether the standard for their country actually required any changes to the existing regime. Simply claiming, as industry did, that it was committed to the standard and that forest owners were aware of and prepared to fulfil its requirements, did not mean the problem was solved.³⁵¹ All the while the clear-cutting of ancient and high conservation value forests continued, and was labelled, the problem of biodiversity decline would remain.³⁵² It was merely a way of providing an eco-label for existing forest management and there was no way to prove any claim that forest management had been improved.³⁵³ The assumptions underlying PEFC's governance presented problems.³⁵⁴ This

was because there was no real vision “to really reform forestry.”³⁵⁵ This related to the issue of performance, and particularly whether any of the PEFC schemes could be considered as delivering genuine performance standards.³⁵⁶

Given the range of business interests interviewed, views on PEFC’s performance varied. One informant supported the NGO contention regarding performance. PEFC’s decision to allow weak verification mechanisms had the potential to render even the strongest of standards meaningless. The PEFC Council process of endorsing national schemes worried them. Independent consultants were expected to check that different stakeholders had been consulted during standards development. This informant believed that these processes were more to determine whether stakeholders had been contacted, than whether their input had actually been adopted.³⁵⁷ Another argued that a study of PEFC and FSC in Germany had found no differences between the systems at the forest stand level, but that PEFC was stronger in some areas than FSC and vice versa. They defended the PEFC’s performance record as nothing to be ashamed of and explained the problem in terms of the fact that it was the role of NGOs to criticise. These were not fact-based arguments, but political.³⁵⁸ Another informant, speaking more generally, felt there was little to tell the PEFC and FSC systems apart on the level of standards, C&I. They acknowledged, however, that differences had been highlighted in the UK government’s timber procurement policy regarding stakeholder participation, interest representation and transparency in the two schemes.³⁵⁹ However, one interviewee from the third group of informants thought that PEFC was “a bit below the level” of other standards in their region.³⁶⁰

Some informants adopted a more sanguine view regarding the contribution made by PEFC. It was necessary to recognise that PEFC schemes represented “small steps in the right direction”, and that it was better to have the “wrong” scheme than not have any.³⁶¹

Evaluation

Attitudes regarding PEFC’s problem solving capacity in both the literature and interviews were not overly complimentary, particularly regarding performance. Here the problem is not simply whether PEFC’s impact on the ground has been effective, but whether this impact is quantified, especially if performance is not a desired outcome of some standards in the case of process, or systems-based approaches. As PEFC was initiated in Europe, where deforestation and other problems such as illegal logging are less of a problem than in developing countries, the impact of the scheme on tackling environmental issues in the tropics has been limited. PEFC’s problem solving ability is rated as **low**.

Durability

It has been argued that industry and forest owner certification schemes (which PEFC is considered to be an example) believe in the dominance of industry in rulemaking. The intent behind such schemes is to keep the policy agenda confined, whilst at the same time delivering flexibility in terms of policy options.³⁶² Elsewhere, the observation has been made that single sector domination in standard setting has allowed for flexible and efficient rule making across the PEFC system.³⁶³ This has become a problem on account of the lack of any mechanism for ensuring consistency in standards across the system.³⁶⁴ A consequence is that some interested parties, particularly NGOs, point to lax standards.³⁶⁵ NGO commentators have also accused PEFC endorsement

procedures of being unduly flexible, leading to inconsistencies that make the system only as strong as its weakest link.³⁶⁶ In the absence of uniform and binding criteria, it is argued inconsistencies can exist not only across schemes but also within countries.³⁶⁷

Interviews

Inconsistency between PEFC schemes was a major theme in NGO criticisms of the system. In Russia, for example, there were two, competitive, PEFC systems, one dominated by industry, the other developed by forestry academics. The latter was closely modelled on the FSC, and was identified as one environmental NGO as having the potential to be beneficial. It was unclear which scheme would ultimately prevail, however.³⁶⁸ PEFC standards were also “highly variable”, making some schemes worse than others.³⁶⁹ It did not have an internally consistent structure; this was exemplified by the different structures for standards setting.³⁷⁰ Having no across the board performance standards that everybody had to adhere to was a critical oversight. From a consumer perspective this meant that when you bought timber or paper with a PEFC logo it did not mean a thing.³⁷¹ This had produced a flawed process, which did not attempt to ascertain what the outcomes would be in the different national systems.³⁷²

NGOs also criticised PEFC for being overly variable in the manner in which interests were represented. One NGO informant expressed deep concerns about the initial way in which the standard setting discussions in their country were broken down into FSC-style chambers. They disagreed with the placement of organic farmers in the environmental chamber, when they were economic stakeholders, and the location of harvesting contractors in the social chamber, when they too were economically involved.³⁷³ Another argued that there was an

inconsistency in PEFC whether consultation occurred at the forest management unit, or regional level. In some countries, consultation occurred at the forest unit level, which was good, but this was an exception. Most countries did not consult at that level, and their requirements for consultation were “very scant, or very, very minimal.”³⁷⁴

There was also recognition by one NGO informant that PEFC had proved itself to be highly adaptable and flexible, and the institution could certainly not be accused of standing still. It had grown continually, and had proved itself capable of adapting to changing conditions. It had accepted the PEOLG, and responding to the EU governmental timber procurement policies, it had later recognised the need to make consultation a requirement during certification assessment. PEFC had also moved closer to, and emulated, FSC, as demonstrated by its chain of custody improvements. However, the major difference that it did not require the equal participation of different stakeholder groups in the standard setting process still remained. Flexibility was a major strength of the system and it had changed considerably from where it had started, and change was still ongoing. The system was changing “more in the direction of a proper certification scheme”, and it was not possible any more to say that the Programme’s C&I were not as good as the FSC. For any “person on the street” there was no discernible difference; but the problem with the system -- “even more so than the FSC” -- was the lack of implementation.³⁷⁵

One business informant acknowledged that there were “discrepancies across the national system”, but put this down to the system’s processes of continual improvement. It was a matter of fact that national processes all originated from different starting points, and they would “not all get there at the same time and

moment.”³⁷⁶ According to another, this created a problem, because even if standards in some instances were not bad, there were so many discrepancies that the whole system looked like it had been made “to endorse just about anything.”³⁷⁷

Evaluation

Acknowledging that PEFC has been in existence since 1999, the observation should be made that the scheme has had at least two major makeovers in its lifetime. It has changed from being a certification programme for European forest management, to an international one, and having achieved international status, has been substantially revised once. These imply a certain ability to adapt to changing market conditions, and to respond to external criticism. Such flexibility could be viewed positively, showing the system is responsive to governmental and non-governmental pressure, and committed to continuous improvement. Alternatively, this constant ‘shifting of goal posts’ makes determination of PEFC’s core values difficult.

However, a very clear criticism of ENGOs, and apparent in an examination of the national schemes themselves, is the lack of consistency across the system. Standards can be either system or performance based; certification can be at either a forest management unit, regional or national level; and governance arrangements at the national level can also vary considerably. This may reflect a genuine attempt to respond to local conditions, or economic/social/political expediency. Consideration of PEFC’s adaptability and variability (both positive and negative) gives it a ranking of **medium**.

Governance Quality of PEFC

Commentary

Table 6.3 Evaluative matrix of PEFC governance quality

<u>Principle</u>	<u>1. Meaningful Participation</u>					
<i>Criterion</i>	1. Interest representation Highest possible score: 9 Lowest possible score: 3 Actual score: 3			2. Organisational responsibility Highest possible score: 6 Lowest possible score: 2 Actual score: 2		Sub-total (out of 15): 5
Indicator	Inclusiveness	Equality	Resources	Accountability	Transparency	
High						
Medium						
Low	1	1	1	1	1	
<u>Principle</u>	<u>2. Productive deliberation</u>					
<i>Criterion</i>	3. Decision making Highest possible score: 9 Lowest possible score: 3 Actual score: 4			4. Implementation Highest possible score: 9 Lowest possible score: 3 Actual score: 5		Sub-total (out of 18): 9
Indicator	Democracy	Agreement	Dispute settlement	Behavioural change	Problem solving	Durability
High						
Medium		2		2		2
Low	1		1		1	
Total (out of 33)						Final Score: 14

PEFC received fourteen points out of a maximum total of thirty-three. Eight indicators achieved low ratings (inclusiveness, equality, resources, accountability, transparency, democracy, dispute settlement, and problem solving), and three medium ratings (agreement, behaviour change and durability). The conventional pass/fail target value of 50% was met by one criterion (implementation). The scores achieved were 56% (implementation), 44% (decision making), and 33% (interest representation and organisational responsibility). At the principle level, the aggregate result was 33% for meaningful participation, constituting a failure

to reach the target value of 50%. The aggregate result for productive deliberation was 50% thus reaching the target value (see Table 6.3 above).

Postscript

PEFC Governance Review

As part of its October 2007 strategic plan, PEFC resolved to undertake a comprehensive review of its governance.³⁷⁸ A panel of “leading experts in sustainable forestry” was convened, and included three members of the Board of Directors and four independent individuals (two of whom were from international environmental and animal welfare organisations). The mandate of the panel was to review PEFC’s effectiveness with regards to those aspects of its governance concerning rules, standards, implementation and monitoring, the extent of support from existing members, and to engage in dialogue with environmental NGOs.³⁷⁹

The review followed the general analytical methodology of the international institution One World Trust, which evaluates quality of governance based on three governance attributes: participation, transparency, and complaint and response.³⁸⁰ In terms of participation, the review recommended that PEFC should “consider developing and adopting a participation policy document outlining the opportunities for external stakeholders to participate in PEFC processes as well as procedures ensuring meaningful participation.”³⁸¹ Specific elements of recommended action included the convening of a PEFC-sponsored conference to initiate dialogue with environmental NGOs, identifying and recruiting local stakeholders to participate in national governing bodies and providing means for them to participate substantively in PEFC at the international level.³⁸² To this end the review proposed the expansion of the existing extraordinary members into a broader, forum-based range of stakeholders, to “be granted specific rights and

responsibilities in the organisation's governance process.”³⁸³ The resulting Stakeholder Forum would be permitted to both nominate two positions of the Board of Directors, and to the Programme's Panel of Experts.³⁸⁴ The Forum would be enfranchised with a one-member-one-vote method of reaching agreement, and be given powers constituting a maximum of 50% of the votes allocated to PEFC Council itself.³⁸⁵ Measures for improving the transparency of the institution were to include consideration of the development and adoption of a “disclosure and transparency document covering the disclosure of information through both the website as well as direct information requests, including a compliance monitoring mechanism.”³⁸⁶ This was identified as a priority for the institution.³⁸⁷ The review concluded that PEFC's existing requirements for dispute settlement already covered a large amount of the One World Trust's indicator list, but the Programme “should consider revising its guidelines [including] issues of retaliation against internal stakeholders (members) and monitoring processes.”³⁸⁸ However, the value of the recommendation was somewhat mitigated by the recognition that PEFC had “no control” over the existing complaints and appeals procedures of its associated organisations. Nevertheless it could “improve the clarity and accessibility of its own process and consider options to assist or facilitate enquiries or complaints to reach resolution through the proper channels.”³⁸⁹ This would make PEFC's existing decentralised system more “user friendly”, and would help direct complaints to the appropriate point in the system.³⁹⁰

Other elements of note within the review included a recognition that the Programme needed to respond to criticisms more constructively, under the maxim “the most strident or vitriolic the attack, the more gracious and engaging the

response.”³⁹¹ A tropical initiative aimed at creating new alliances and advancing PEFC’s standards for SFM should also be developed.³⁹² A Technical Unit would also be established to “provide capacity-building services to members and prospective members.”³⁹³ Substantial changes were also recommended relating to the institution’s organisational structure at the international level, and assessment, endorsement and mutual recognition processes.³⁹⁴

Conclusions

PEFC’s genesis is best understood as a counter-initiative to the market dominance of FSC in Europe, tailored to meet the needs of specific stakeholders, and subsequently expanded to meet the same set of imperatives globally. PEFC might well be described as an advocacy coalition made up of a variety of actors from public and private organisations, sharing basic policy beliefs and seeking to interact with and influence the decisions of government institutions.³⁹⁵ In the case of PEFC, this coalition is built largely around private forest owners and those industries that derive their forest products from such sources.

These origins need not have mattered significantly if they had not had such a profound impact on the structures and processes that underlie the Programme’s governance system as a whole. Internationally, key stakeholders such as environmental NGOs, unions and indigenous peoples are effectively excluded from actively participating in the institution’s highest organ, the General Assembly. While they enjoy a degree of representation on the Board of Directors, it does not match the power wielded by forest owners and the forest industry. Although it is technically possible for NGOs or other groups to attend the General Assembly as delegates, or delegation observers, they would attend in a national representative, not sectoral, capacity. Again, although other international

organisations can become non-voting members, none of these represent environmental interests, and are all either forest industry, forest owner, or forestry management oriented. In addition to the low degree of environmental interest representation, the degree of developing country representation is also mixed. This can be partly explained by its early history, but the institution still remains largely Euro-centric in terms of representation in both its Board of Directors and the General Assembly.

With the democratic emphasis at the international level being largely based on systems of majority voting, it is difficult to consider its decision making processes as being particularly deliberative in nature. Furthermore, voting members of the General Assembly consist of national governing bodies, the establishment of which is the responsibility of national forest owners' organisations or national forestry sector, sanctioned by the major forest owners' groups of the country. Under these procedures minority viewpoints are unable to wield the same degree of influence as those that predominate numerically. Early decisions to disenfranchise selected interests from shaping the future direction of the institution have also resulted in a form of procedural discrimination, whereby only those groups which support the forest-owner and forest industry orientation of PEFC have a seat at the negotiating table.

PEFC acknowledges itself that its primary participatory framework is at the national and sub-national levels. Nationally, however, the system is ultimately in the hands of forest owners and/or forest industry. Although multi-stakeholders must be invited to participate in standards setting, there is no such requirement for the earlier formative stages of the national institution itself; in fact it is quite the reverse. Only forest owners and/or the forest industries in a given country can

initiate regime formation. Furthermore, all stakeholders are expected to support the Programme. Historically, and constitutionally, the documentation associated with the Programme makes it quite clear that member schemes are really only accessible to those who support PEFC, and its conception of forest management. Again, this might not matter if all stakeholder sectors were included in regime formation, but they are not. Some national bodies have been accused of a lack of balance in stakeholder representation. In some instances, schemes have been developed either entirely by forest owners in the case of Norway, for example, or by government and the forestry industry, in the case of Australia.³⁹⁶

These factors combine to make it structurally difficult for groups in conflict with certain aspects of the scheme to have an effective voice, and may go some way to explaining why certain interests have withdrawn from national schemes. Either unintentionally or intentionally, the system encourages the non-participation of such interests. Non-core stakeholders consequently face an impossible set of choices regarding participation within PEFC. If they do participate, the nature of their relationship to the system affords them only limited influence in comparison to core interests. If they do not participate, they face the risk of being locked out of the national dialogue around forest management, since many PEFC schemes comprise, or are fully compatible with, governmental forest programmes. This two-pronged incentive not to participate has led a number of stakeholders to move even closer to the FSC than they might originally have been, thus subjecting them to accusations of bias, making their participation in PEFC even more untenable. This situation has only served to reinforce the divide between environmental/social and industry/owner interests and the pro- and anti-PEFC ‘camps’.

Similar conclusions can be made regarding PEFC's decision making processes, in the sense that they can be interpreted as non-deliberative. This can be seen at the relatively superficial level in the almost complete lack of dialogue between the institution and some stakeholders, who should be considered obvious constituents. As one informant commented, "there is no discourse."³⁹⁷ But on a procedural level it runs deeper. One example of this is the lack of clarity within the system regarding whether substantive concerns raised during the standards development phase must be addressed. Another is the system's inability to settle grievances, for what are complaints if not an attempt to initiate dialogue, albeit on a somewhat fractious level? In terms of decision making, the very procedures, which are supposed to encourage dialogue, such as consensus and qualified majority voting cannot function effectively because the broader frameworks in which they operate are not functionally democratic. Internationally, there is no universal franchise, and a weighted voting system is used when majority votes are cast amongst enfranchised members. There may be dialogue within national standards setting processes, and there may be consensus, but in terms of the systemic predominance of forestry interests, there is very little opportunity for compromise. Why would such interests compromise over something that affects them directly, when they have control of the process? In terms of both structure and process, it is apparent that a number of governance attributes are missing from PEFC.

Interaction between parties cannot really be interpreted as being social-political in nature, but rather as being merely politicised. As an institution, PEFC displays some level of competence in terms of implementation. However, due to the many different national governing bodies, country schemes are highly inconsistent, largely on account of different attitudes regarding the adoption of performance- or

systems-based standards. Here, PEFC reflects the existing (and contradictory) international norms, and operates within them. But it does not go any further, and in some instances fails to meet even some of these normative expectations.

With the system largely geared around government and forestry interests and designed with the aim of accommodating industry needs, it should not be surprising that PEFC has been identified by forest governance scholars as having virtually no credibility in the NGO sector.³⁹⁸ However, it is as wrong to portray environmental NGOs in particular as innocent victims or the unwitting subjects of strategic manipulation, as it is to exculpate the PEFC from any blame.³⁹⁹ This should caution against an overly simplistic analysis of the relationships between environmental and economic interests within PEFC, particularly regarding the degree of accountability -- and more broadly, responsibility -- demonstrated by NGOs towards those European private forest owners who were initially involved the development of PEFC. But it still leaves matters concerning the social sector, particularly indigenous peoples, unresolved.

Whether PEFC has the ability, will and internal support to implement the far-reaching recommendations of the 2007-2008 governance review is, at this time, unknown. It is perhaps worth noting here that many of the recommendations in the review are couched in the subjunctive, “should” rather than the imperative “shall”, and are not mandatory.⁴⁰⁰

Endnotes

¹ The PEFC system was launched in 1999 as Pan European Forest Certification, and re-launched in 2003 as the Programme for the Endorsement of Forest Certification (Humphreys, *Logjam*, p. 127). Given the dual terminology it is referred to throughout simply as PEFC.

² Hannes Mäntyranta, *Forest Certification - An Ideal that Became an Absolute*, trans. Heli Mäntyranta (Helsinki: Metsälehti Kustannus, 2002), p. 95.

³ Lars H. Gulbrandsen, “Explaining Different Approaches to Voluntary Standards: A study of Forest Certification Choices in Norway and Sweden”, *Journal of Environmental Policy and Planning* 7 (1) (2005) pp. 43-59 at p. 51, following Cashore et al., *Governing Through Markets*, pp. 170-171.

⁴ Mäntyranta, *Forest Certification*, pp. 95-97.

⁵ Mäntyranta, *Forest Certification*, p. 97.

⁶ Finnish Forest Industries Federation, “Increased credibility for Finnish Forest Certification Approach through European Cooperation”, media release 25/08/1998; “Industry fully supports the Finnish Forest Certification System (FFCS) - FSC-Labeling of Products Becomes Available, Too?” media release 28/10/1998.

⁷ Humphreys, *Logjam*, p. 127.

⁸ Mäntyranta, *Forest Certification*, pp. 47-48. At this point Swedish environmental NGOs who had been working on the establishment of an FSC programme since 1994, joined with other social and economic interests to establish an FSC working group (Lars H. Gulbrandsen, “Explaining Different Approaches to Voluntary Standards”, p. 51).

⁹ Hannu Valtanen, Vice-president Finnish Forest Industries Federation, Natural Resources and Forest Policy, email to the researcher, 13/09/1999.

¹⁰ Benjamin Cashore, Elizabeth Egan, Graeme Auld and Deanna Newsom, “Revising Theories of Nonstate Market-Driven (NSMD) Governance: Lessons from the Finnish Forest Certification Experience”, *Global Environmental Politics* 7 (1) (2007), pp. 1-44, p. 6.

Forest sector criticisms of FSC in Europe have been distilled into a general view that it was “costly, intrusive and lacking in legitimacy” (Lars H. Gulbrandsen, “Overlapping Public and Private Governance: Can Forest Certification Fill the Gaps in the Global Forest Regime?” *Global Environmental Politics* 4 (2) (2004) pp. 75-99 at p. 92). Forest owners objected to the high costs of FSC certification. These related to pre-assessment, the certification process itself, the changes required to make management eligible for certification as well as the compliance requirements themselves, and the lack of a group certification option. The inability for small forest owners to group together essentially forced small-scale family holdings to seek alternative options. Through the FSC, NGOs were seen to have overstepped their proper place and had made themselves judges

in matters where they lacked expertise and experience and where they had no right to regulate. The FSC was seen as lacking interpretive flexibility in its rules and as favouring larger companies, with greater economies of scale. Overall, the system was seen as being far too environmentally and socially stringent, and landowners and forest industries wanted a scheme that paid greater attention to economic criteria. There was also a perception that environmental and social interests dominated the decision making processes of the FSC, and for forest owners, this challenged its credibility and independence. Further, since the FSC lacked the legitimacy of a state institution and because of its dominance by NGOs it was interpreted as suffering from an accountability deficit (Gulbrandsen, “Overlapping Public and Private Governance”, pp. 91-92).

¹¹ Cashore et al, “Revising Theories of Nonstate Market-Driven (NSMD) Governance”, p. 5.

In Sweden non-industrial forest owners were isolated from the close relationships between environmental, labour and indigenous Sámi organizations. These feelings of exclusion may have been aggravated by a lack of cross-sectoral support from larger forest interests. These were mostly unaffected by Sámi demands for reindeer grazing access on forestlands, whereas most grazing areas were on small, private forest holdings in the north. This left small forest owners feeling their larger industry colleagues had left them in the lurch (Lars H. Gulbrandsen, “Sustainable Forestry in Sweden: The Effect of Competition Among Private Certification Schemes”, *The Journal of Environment & Development*, 14 (3) (2005), pp. 338-355, p. 342, citing various sources).

¹² Mäntyranta, *Forest Certification*, p. 128.

¹³ “The Certification Wars: Forest Certification Schemes as Sites for Trade-environment Conflicts”, paper presented to the privatizing environmental governance panel at the 46th annual convention of the International Studies Association Honolulu, Hawaii 1-5 March 2005, 45 pp. at p. 19.

¹⁴ Humphreys “The Certification Wars”, p. 19; Mäntyranta, *Forest Certification*, p. 132. Humphreys suggests that the non-decision of the EU to intervene on behalf of forest owners may have been another spur to the creation of the PEFC (*Logjam*, p. 127).

¹⁵ Mäntyranta, *Forest Certification*, p. 132.

¹⁶ Mäntyranta, *Forest Certification*, pp. 132-135.

¹⁷ Helsinki, August 1998, Århus and Hanasaari October 1998, Bonn, December 1999, Oslo, January 1999, Segovia, March 1999, Würzburg, April 1999 (Mäntyranta, *Forest Certification*, pp. 6-7).

¹⁸ Mäntyranta, *Forest Certification*, p. 146.

¹⁹ Mäntyranta, *Forest Certification*, p. 153.

²⁰ Mäntyranta, *Forest Certification*, pp. 184-185.

²¹ Mäntyranta, *Forest Certification*, pp. 152-157 and p. 184.

²² Mäntyranta, *Forest Certification*, p. 164.

²³ Mäntyranta, *Forest Certification*, p. 214.

²⁴ PEFC, “A Short History”, http://www.pefc.org/internet/html/about_PEFC/4_1137_498.htm, accessed 14/06/2007.

²⁵ Mäntyranta, *Forest Certification*, p. 214.

²⁶ http://www.pefc.org/internet/html/about_PEFC/4_1137_498.htm (accessed 14/06/2007).

²⁷ Katie Altoft, “Canada - CSA”, *PEFCC Newsletter* 12, (September 2002), p.8.

²⁸ *PEFCC Newsletter*, “Statistics on Main Forest Certification Schemes”, 7 (July 2001), p. 1.

PEFC’s attitude towards FSC can be interpreted as one of competitive rivalry, which has manifested itself in a number of ways. Some authors have described PEFC as having a two point strategy of “increasing support for the PEFC among state, community, and private forest landowners, and increasing efforts to gain support from parts of the supply chain that are traditionally FSC territory” (Benjamin Cashore, Graeme Auld and Deanna Newsom, *Governing Through Markets: Forest Certification and the Emergence of Non-State Authority* (New Haven and London: Yale University Press, 2004), p. 180). By way of example, PEFC appears to have waged a particularly strong and effective campaign in Germany. Here, the competition for forest certification came to the fore in 2001 in the state forests of Nordrhein Westfalen, where an initial commitment to FSC certification was replaced by a policy from the state ministry that the region’s forests would also be submitted to PEFC for certification (Dirk Teegelbeekers, “ENGOS Invited to Witness the Auditing Process in Germany”, *PEFCC Newsletter*, 7 (July 2001), pp. 5-6, at p. 5). Although an attempt at rapprochement was made “to tolerate the existence of both schemes” at a meeting in Bad Honnef in the same year further efforts by PEFC succeeded in extending the reach of its brand in country (Dirk Teegelbeekers, “Germany - Over 5 Million Hectares Already Certified”, *PEFCC Newsletter*, 9 (December, 2001), p. 5). The high level of support given to FSC’s competitors by companies and forest owners has also been explained as a “business strategy to protect market share” (Humphreys “Certification Wars”, p. 22).

²⁹ http://www.pefc.org/internet/html/about_PEFC/4_1137_498.htm, accessed 14/06/2007.

³⁰ Dirk Teegelbeekers, “Germany - Forest Owners Protest Against Discrimination” *PEFCC Newsletter* 11 (June 2002), p. 5. While some FSC supporters were unimpressed by PEFC actions organised against them, others, such as Axel Springer Verlag, choose not to feature the FSC logo on its products. The Association of German Magazine Publishers went even further, announcing that PEFC met its requirements for a credible certification system (Cashore et al, *Governing Through Markets*, pp. 181-182).

³¹ Ben Gunnerberg, “General Assembly Synopsis” *PEFCC News Special* (December 2002), p. 1.

³² Humphreys “Certification Wars”, p. 21

³³ *PEFCC News Special*, “Continuing Globalisation of the PEFC Council”, (December 2002), p. 2.

³⁴ *PEFCC News Special*, “PEFC Chairman to Visit Gabon to Discuss Feasibility of Pan African Forest Certification System”, (December 2002), p. 3.

³⁵ *PEFCC Newsletter*, “Globalisation”, 14 (February 2003), p. 1.

³⁶ *PEFC News*, “Alteration to the PEFC Name”, 17 (November 2003), p. 4.

Pekka Patosaari, UNFF Coordinator and Head of Secretariat, was invited to speak to the October General Assembly defending PEFC, and its place in the market, and his comments were reported as follows:

He stated that sometimes forest certification had been mentioned as a means of saving the world’s forests. This type of discussion moves the debate to an area where public perception is more important than the facts. The support or lack of support from some NGOs seems to determine the public perception and this can also have some relevance from a marketing point of view. He was of the view that the present confusion in the market would not prevail much longer. On the one hand there was a need for quality consensus building between schemes, but, he said, PEFC was already strong enough to stand alone, and deliver (Anonymous, “Summary of Presentation by Mr Pekka Patosaari, UNFF Coordinator and Head of Secretariat”, *PEFC News* 17 (November 2003), p. 9).

³⁷ Haruyoshi Takeuchi, “PEFC Asia Promotions Initiative”, *PEFC News* 18 (February 2004), p. 3;

Saskia Ozinga, *Footprints in the Forest: Current Practice and Future Challenges in Forest Certification*, (Moreton-in-Marsh: Fern, 2004), p. 58 (the author of this study was engaged in 2003 as a consultant researcher for the preparation of Australian Forestry Standard-related material in *Footprints in the Forest*).

³⁸ http://www.pefc.org/internet/html/about_PEFC/4_1137_498.htm (accessed 14/06/2007).

³⁹ See for example *PEFC News*, “EU Parliament Regards PEFC and FSC as Equally Suitable”, 30 (March 2005), p. 1, *PEFC News*, “European Toy Producers Treat PEFC and FSC Equally”, 33 (October 2006), p. 1, *PEFC News*, “Governmental Shopper’s Guides Recommend PEFC”, 33 (October 2006), p. 2. The situation in Germany regarding procurement provides an interesting anecdotal example. When the Federal coalition government stated that all the timber it purchased would come from FSC certified forests in four years, PEFC mounted a counter attack arguing that it would violate German procurement legislation (Dirk Teegelbekkers, “Chain-of-Custody Certificates Increasing in Germany”, *PEFCC Newsletter* 14 (February 2003), p. 6). PEFC predicted that neither state forests nor the timber procurement policy would favour FSC, and claimed that “customer demand” for PEFC product was so high that “even the chairman of the German FSC working group has recently certified his own forests to PEFC” (Dirk Teegelbekkers, “Germany - Chain-of-Custody”, *PEFC News* 16 (October 2003), p. 5). The experiences in Germany appear to have taken the edge off FSC in other countries. In Denmark for example, the Danish environment minister determined to have state forests certified to both certification systems, while private forest owners overwhelmingly opted for PEFC (Tanja Olsen, “PEFC Certification Denmark”, *PEFC News* 23 (December 2004), p. 5).

⁴⁰ http://www.pefc.org/internet/html/about_PEFC/4_1137_498.htm, accessed 14/06/2007.

⁴¹ *PEFC News*, “PEFC Council Global Statistics”, 37 (May 2007), p. 3; *PEFC News*, “Assessment of Forest Certification Systems”, 37 (May 2007), p. 3.

⁴² http://www.pefc.org/internet/html/about_PEFC/4_1137_498.htm (accessed 14/06/2007).

⁴³ *PEFC News*, “PEFC – World’s Largest Resource of Certified Wood”, 29 (January 2006), p. 1.

⁴⁴ http://www.pefc.org/internet/html/about_pefc.htm, accessed (14/06/2007).

⁴⁵ PEFC, “PEFC in Figures”, http://www.pefc.org/internet/html/about_pefc/4_1137_515.htm, accessed 14/06/2007; *PEFC News*, “PEFC Council Global Statistics” (May 2007), p. 3.

⁴⁶ Mäntyranta, *Forest Certification*, pp. 67-85. Mäntyranta attributes the breakdown to several factors. There was confusion as to whether the process would lead to FSC certification, the view of ENGOs, whilst this understanding was contradicted by MTK. Competition from Sweden where the first FSC standard negotiations were underway has also been identified as a factor (although the initiative was having its own problems having run into objections from small forest owners). A third and important contribution was the pressure from external domestic and international ENGOs on environmental participants to abandon the standard. These groups are portrayed as being motivated by a desire to see a Swedish FSC standard appear first, and they were angry over Finland’s lack of consultation with other European NGOs. They demanded that a Finnish FSC working group be established (ibid). This demand “effectively ended the forestry sector’s cooperation with environmental organisations in the matter of certification” (Mäntyranta, *Forest Certification*, p. 85). This perspective is contradicted by other, more politically scientific analyses and has been accredited to deeper social-political causes as well. The Finnish outcome is described as predictable since the “difficulties in participatory approaches to forest policy planning originate from the long and strict dominance of the neo-corporatist forest policy agenda” (Michael Howlett and Jeremy Rayner, “Globalization and Governance Capacity: Explaining Divergence in National Forest Programs as Instances of ‘Next Generation’ Regulation in Canada and Europe”, *Governance*, 19 (2) (2006), pp. 251-275 at p. 261, quoting Pekka Ollonqvist, “Political Culture and Forest Programs in Finland”, in *BOKU Institute of Forest Policy and Economics Publication Series*, 27, ed. Peter Glück and Johannes Voitleitner (Vienna: University of Natural Resources and Applied Life Sciences, 2004)).

⁴⁷ Ibid.

⁴⁸ Anna-Leena Simula, “Finnish Forest certification System (FFCS) and its Compatibility with International Certification Systems”, presentation on behalf of MTK Forestry Group to the Pan-European Forest Certification (PEFC) Seminar and Workshop, Würzburg, April 19-21, 1999.

⁴⁹ Mäntyranta, *Forest Certification*, pp. 6-7 and p. 188.

⁵⁰ Mäntyranta, *Forest Certification*, p. 188. Emphasis added.

⁵¹ Finnish Forest Industries Federation, media release, 28/10/98.

⁵² Hannu Valtanen, email to the author, 13/09/1999. A similar pattern was to emerge in Germany. German forestry interests saw the value of including private forest owners in the development of their scheme, since only a small minority favoured FSC, but only environmental NGOs “willing to co-operate” should be included. This automatically excluded Greenpeace and WWF (Mäntyranta, *Forest Certification*, pp. 146-147). In subsequent years this attitude was justified on the grounds

that German NGOs rarely took up the opportunity to participate “due to ideological motives” and that their inclusion was guaranteed on both national and regional levels (Dirk Teegelbekkers, “Forest Certification - Experiences With PEFC in Germany” presentation on behalf of PEFC Germany to the Seminar on Strategies for the Sound Use of Wood, Poiana Brasov, Romania, 24-27 March 2003).

⁵³ This observation was made by one of the NGO informants interviewed for this study:

“The Finnish ENGOS sat around the table with the forest owners, with the forestry industry, discussing a standard. Before the standard was approved, they [NGOs] had walked out, because they did not agree with what was about to be approved. In every single communication up until the last six months and at least for the year before that, the Finnish PEFC said that the standard had been developed with the full participation of environmental NGOs. But they never said that they had withdrawn from the process before the standard was approved, which is a total misuse of NGO participation, and is not a way of building relationships” (personal interview #2, 05/07/05).

⁵⁴ Mäntyranta, *Forest Certification*, p. 153, which reads as follows:

It was decided that organisations of European forest owners would be invited to participate, but the opinion on NGOs was that they should be consulted and their views would be considered during the preparation of the certificate framework - and at the national level this would continue during the process of setting the standard. ... Thus it is not entirely unfounded when the ENGOS [environmental NGOs] claim that they were only invited to the table after the meal had been prepared. The forestry sector defended itself saying that to do this earlier would have upset the apple cart, as achieving unanimity among European forest owners in the first instance was not a simple task. The ENGOS have had difficulties in believing this (ibid).

⁵⁵ Anonymous, “Pan European Forest Certification”, memorandum, 2/9/199, http://www.faf.de/paneuro_e.htm, accessed 20/09/1999.

⁵⁶ Ibid (my italics).

⁵⁷ Ibid.

⁵⁸ *EU Forest Watch*, “Presentation of the Pan European Forest Certification Scheme”, 29, (December 1998) <http://www.FERN.org>, accessed 20/09/02.

⁵⁹ Saskia Ozinga, “The European NGO Position on the PEFC”, presentation on behalf of FERN to the Pan-European Forest Certification (PEFC) Seminar and Workshop, Würzburg, April 19-21, 1999 (20/04/1999), p. 6.

⁶⁰ Ibid.

⁶¹ Ozinga, “The European NGO Position”, p. 3. Environmental NGOs also interpreted the hostility towards FSC demonstrated by forest owner associations – typified by the Confederation of European Private Forest Owners (CEPF) - as being partly psychological. The analysis ran that forest owners had been unprepared for certification and were not involved in international discussions. European forest owners also considered their forest management to be sustainable, which NGOs disputed. They also felt confronted by a process over which they had no influence (Ozinga, “The European NGO position”, p. 7). The situation was exacerbated by FSC supporters in Europe who “could and probably should have done more to actively engage forest owners in the certification processes from the start” Ibid). However, rather than establishing a new system,

NGOs thought it better to join the FSC, which they argued was flexible enough to meet their needs (Ozinga, “The European NGO position”, pp. 3-4). But it was already too late. Speaking with hindsight, one NGO informant interviewed for this current study criticised WWF’s programme to develop buyers groups, which concentrated on sourcing FSC-certifiable timber from large forest producers, as effectively excluding small forest growers from the FSC system (personal interview #2, 05/07/05). They saw this as “one of the biggest strategic mistakes made by the movement in Europe” (ibid).

⁶² Press release, WWF/NABU, 25/06/1999.

⁶³ Mäntyranta, *Forest Certification*, p. 245.

⁶⁴ Ozinga, *Footprints in the Forest* p. 51.

⁶⁵ Nancy Vallejo and Pierre Hauselmann, *PEFC: An Analysis* (Pully: Pi Environmental Consulting, 2001), Matti Liimatainen and Sini Harkki, *Anything Goes? Report on PEFC Certified Forestry* (Helsinki: Greenpeace Nordic and the Finnish Nature League, 2001) - both published in January; Saskia Ozinga, *Behind the Logo: An Environmental and Social Assessment of Forest Certification Schemes* (Moreton-in-Marsh: FERN, 2001) published in May.

⁶⁶ Mäntyranta, *Forest Certification*, pp. 275-293; PEFC Germany, “Position of PEFC Germany Concerning the FERN-Report ‘Behind the Logo’” <http://www.pefc.de/verglich/behind.htm>, accessed 19/06/2007.

⁶⁷ PEFC, “PEFC Council Position Statement on Recent WWF Press Release on Austrian Forest Certification Scheme”, media release, 08/05/2001.

⁶⁸ Gabriele Herzog, “PEFC Austria - Totally Compliant with Austrian Law - Issues First Logo Licenses”, *PEFCC Newsletter* 8 (July 2001), p. 5.

⁶⁹ *PEFCC Newsletter*, “Some New Faces on the PEFC Council”, 7 (July 2001) p. 2 and *PEFC News*, “Election of New Board of Directors”, 17 (November 2003), pp. 7-8.

⁷⁰ *PEFCC Newsletter* 7, p. 2, Ozinga, *Footprints in the Forest*, p. 51.

⁷¹ Ozinga, “*Footprints in the Forest*” p. 51.

⁷² Ozinga, *Footprints in the Forest*, p. 51.

Of the two groups in Germany that sit on the German Forest Certification Council of PEFC, Vereinigung Deutscher Gewässerschutz concerns itself with raising public awareness about the value of water and the need to protect water resources (Vereinigung Deutscher Gewässerschutz, “Über Uns”, http://www.vdg-online.de/ueber_uns.html, accessed 19/06/2007). The second, Schutzgemeinschaft Deutscher Wald is supported by the Bavarian Forestry Service and State Forests Bavaria and works mostly on educational, youth-oriented and promotional activities associated with production forests (Schutzgemeinschaft Deutscher Wald Landesverband Bayern e.V. *Jahresbericht 2005*, pp. 4-10).

⁷³ <http://www.pefc.de/vergleich/> (accessed 19/06/07).

⁷⁴ Ibid.

⁷⁵ *PEFCC Newsletter*, “PEFC Austria is on the Road to Success - WWF Accusations ‘Substantially Wrong’”, 7 (July 2001), p. 5.

⁷⁶ Ibid.

⁷⁷ Teegelbekkers, “ENGOS Invited”, pp. 5-6, commenting as follows:

So far, not a single ENGO has accepted this invitation. This attitude clearly demonstrates that they do not seem to be interested in a constructive dialogue and an open discussion about facts, which is regrettable (ibid).

⁷⁸ Teegelbekkers, “Germany - Over 5 Million Hectares”, p. 5.

⁷⁹ Elisabeth Gill, “Unfounded Criticism of Norway’s Forest Owners Federation by WWF” *PEFCC Newsletter* 8 (October 2001) pp. 3-4.

⁸⁰ The Finnish Forest Certification Standard was opened to a review through an “independent” Working Group consisting of twenty-three “representatives of all the key organizations and interest groups in the forestry field.” An executive committee was established between the Reindeer Herders’ Association, the Sámi Parliament, the Finnish Forest and Park Service (Metsähallitus) and the Forest Owners Union to address previously unresolved “special issues” dating back to the first standard with the indigenous people of northern Finland (Auvo Kaivola, “Revision of Forest Certification Requirements Under Way in Finland” *PEFCC Newsletter* 11 (June 2002) p. 7). The Working Group organised an open seminar on the revised version of the standard in August at which experts “informed” the public and media concerning the different parties’ views. The revision process, it was claimed, had provided “many choices for the public to participate” and had informed them frequently on the Working Group’s decisions. The standard was distributed widely in November 2002, and three meetings were held to “inform forestry players about the contents of the new draft and gather comments from the players that work closely with the forest management.” The standard was endorsed by the Working Group in April 2003, which consisted of twenty-three representatives of “all the key organisations and interest groups in the forest field” (Auvo Kaivola, “Finland - First Revised SFM Version Expected in November” *PEFCC Newsletter* 12 (September 2002), p. 6).

The review of the Norwegian national standard commenced in 2003. At a meeting of the Living Forests Certification Committee (LFCC) a decision was made to set up a small working group of “forest owners, forest industries and environmental and outdoor recreation organizations” to develop the scope of the revision process (Elisabeth Gill, “Norway - Living Forests Revision Process Started”, *PEFCC Newsletter* 15, (May 2003) p. 5). The Norwegian Society for the Conservation of Nature withdrew from the process in October citing limited resources and commenting: “the expected results of the revision process will not equal the costs of their participation. Priority will be given to the organisation’s work on forest conservation” (Elisabeth Gill, “Norway - ENGO Withdraws from Revision Process”, *PEFC News* 16 (October 2003), p. 7).

⁸¹ Eero Yrjö-Koskinen, Matti Liimatainen and Lotta Ruokanen, *Certifying Extinction? An Assessment of the Revised Standards of the Finnish Forest Certification System* (Helsinki:

Greenpeace Finland, Finnish Association for Nature Conservation, Finnish Nature League, 2004), p. 21.

⁸² The PEFC Swedish standard was obliged to make a number of key amendments, including setting aside areas from logging, and banning logging in certain biotopes, in accordance with FSC provisions. The difficulties regarding the granting of grazing access to Sámi reindeer herders on private land remained unresolved. This arrangement between PEFC and FSC caused some concerns amongst PEFC supporters, including Canada, that FSC would absorb the scheme, giving NGOs even greater monopoly. The arrangement, referred to as the “Stock Dove” process was approved by the PEFC Board in 2002 (Mäntyranta, *Forest Certification*, pp. 245-249).

⁸³ Ozinga, *Footprints in the Forest*, pp. 24-27.

Australian environmental NGOs had resigned from the country’s Australian Forestry Standard (AFS) scheme earlier in the year, condemning it as a “rubber stamp for forest destruction” (Australian Conservation Foundation, Friends of the Earth, Greenpeace, The Wilderness Society, “Open Letter from Australian National ENGOS Campaigning for Forest protection and Sustainable Forest Management Re: Australian Forestry Standard (AFS)” (October 2005); West Australian Forest Alliance, “Australian Forestry Standard a Rubber Stamp Farce”, press release, 11/10/2002). In July of 2001, 13 environmental and social NGOs withdrew from the MTCC process, arguing their views had not been taken into account. In January 2002 WWF Malaysia also withdrew, resigning from the Board of MTCC over its decision to initiate the system when it had not been developed with balanced participation (Ozinga, *Footprints in the Forest*, pp. 71-72). NGOs also criticised the Chilean scheme for not requiring balanced participation, although PEFC was to claim subsequently that its governing body consisted of “democratically elected representatives” including NGOs (Ozinga, *Footprints in the Forest*, p. 67; Gisella Barrera, “New CERTFOR Standard for Native Forests”, *PEFC News* 26 (July 2005), p. 6). This was disputed by NGOs who claimed: “there is nothing in the structure of the standard-setting process that ensures the views of one group of stakeholders is not able to dominate” (Ozinga, *Footprints in the Forest*, p. 67).

⁸⁴ The Canadian scheme was built around the Canadian Council of Forest Ministers’ elements and criteria for sustainable forest management, and consistent with the intergovernmental Helsinki and Montréal processes. The CSA standard adopted the criteria verbatim, but the elements were revised to ensure that they applied only at the forest management area level only. The public participation process regarding forest management practices occurred at the local level of the Defined Forest Area (DFA) only, and under existing forest management planning practices (Altoft, “Canada – CSA”, p.8). The NGO criticisms of the Canadian process have been identified as arising from concerns about participation in the development of the standard at the Technical Committee level and regarding public participation covering the certification of the DFA. Firstly, neither WWF nor the Sierra Club of Canada ever participated in the Technical Committee, although they were listed as participants. This passive non-participation became active when both groups determined that the process was not a useful exercise and decided never to attend meetings,

lest their names be used to give the system undue credibility. At the DFA level the ultimate decision making- power regarding management resided with the forest manager or owner. The public also only had access to the development of the performance framework, not the implementation, and nor were certifiers required to consult the public during the registration/certification process. Finally, the process had no procedures regarding what to do in the event of a breakdown of consensus, which NGOs claimed gave the forest manager de facto decision making power in the absence of a clear decision (Elliott, *Forest Certification*, pp. 150-152).

⁸⁵ Ben Gunnerberg, "PEFC Forging Ahead!" *PEFCC Newsletter* 11 (June 2002), p. 1.

⁸⁶ Skaidrite Albertina, "Forest Owners Start to Sell Products from Certified Forests in Latvia" *PEFCC Newsletter* 10 (March 2002), p. 4.

⁸⁷ *PEFC News*, "ENGO Conference", 18 (February 2004), p. 3.

⁸⁸ Ibid.

⁸⁹ *PEFC News*, "First ENGO Symposium", 20 (May 2004), p. 1.

⁹⁰ *PEFC News*, "International ENGO Platform Supporting PEFC Certification", 25 (April 2005), p. 2.

⁹¹ *PEFC News*, "PEFC Open Letter To The World Bank And WWF", 21 (September 2004), p. 1. The programme is officially known as The World Bank/WWF Alliance for Forest Conservation and Sustainable Use.

⁹² Ibid.

⁹³ Ozinga, *Behind the Logo*, p. 23; Ivar Korsbakken and Svein Søgne, "Norwegian Forest Owners Warn of Trade Barriers", *PEFC News* 35 (January 2007), p. 11.

⁹⁴ Ben Gunnerberg, "Editorial", *PEFC News* 24 (February 2005), p. 1.

⁹⁵ *PEFC News*, "International Accreditation Forum", 19 (March 2004), p. 1. The IAF is a worldwide federation of national accreditation bodies, created with the intention of achieving mutual recognition between all accreditation bodies globally, obviating the need for trans-national suppliers of products or services to be certified in individual countries (Humphreys, *Logjam*, p. 133). IAF has been identified as a natural ally for PEFC, since both have strong a business constituency, and both, it is argued, are consequently "reluctant to accept social and environmental standards drawn up by NGOs" (Humphreys, "Certification Wars", p. 29).

⁹⁶ *PEFC News*, "International Accreditation Forum", p. 1. FSC has been less successful in its relations with the IAF. An international certification and labelling alliance, of which FSC is a founding member, the International Social and Environmental Accreditation and Labelling Alliance (ISEAL), has had its membership application to IAF rejected on three occasions. PEFC and IAF are natural allies, as they represent economic interests suspicious of standards based around environmental and social justice (Humphreys, *Logjam*, pp. 133-135).

⁹⁷ Henri Plauche-Gillon, “Extracts from the Chairman’s Report on Activities in 2003/2004”, *PEFC News* 22 (November 2004), p. 3.

⁹⁸ *PEFC News*, “PEFC Granted Observer Status in MCPFE”, 35 (January 2007), p. 4.

⁹⁹ *PEFC News*, “PEFC Praised for its Social Criteria”, 33 (October 2006), p. 1.

¹⁰⁰ Michèle Thinnès, “ENGOs Join PEFC”, *PEFC News* 33 (October 2006), p. 4.

¹⁰¹ Gunnerberg, “Editorial”, p. 2.

¹⁰² *PEFC News*, “Key Note Speech by Peter Seligmann from Conservation International”, 34 (November 2006), p. 2. He is reported as commenting, that:

“[T]he real challenge for the environment in general was to involve everyone” and he congratulated PEFC for its successful involvement of all stakeholders in its processes, further adding that “cooperation not confrontation is the method Conservation International uses” (ibid).

¹⁰³ The history of Aracruz and certification in Brazil is worth a short examination. The company had come under criticism during the assessment of its plantations for PEFC certification for sitting in on stakeholder consultations, making it difficult for people to present their concerns, and for not undertaking consultations in a timely and sufficiently widespread manner (Ozinga, *Footprints in the Forest*, pp. 62-64). In 2004 Aracruz purchased FSC certified company, Riocel. Prior to purchase the company’s activities had not been considered controversial. Some stakeholders contacted FSC directly and complained concerning Aracruz’ activities elsewhere in Brazil, particularly in the province of Espírito Santo, where it had come into conflict with local indigenous people. Aracruz had ceded 7,500 hectares to 1,200 indigenous families, and had agreed to a financial support package. By the time the matter was settled, the community had expanded to over 2,000 families and was requesting a further 11,000 hectares (Richard Z. Donovan, Luis Fernando, Guedes Pinto and Lineu Siqueira “Withdrawal of Aracruz Riocel Guaíba Forest Management Certificate”, letter to FSC stakeholders (24 May, 2006)). Aracruz voluntarily withdrew Riocel’s FSC certificate in March 2006, and handed the conflict over to the Brazilian courts to settle. Aracruz’s intent was “to resolve the issues and provide stability to the community, the company, its investors and customers” (ibid). Interestingly, its decision coincided with a review within FSC of its own certification policies regarding “controversial or high risk forest operations (based on social, ecological or other factors)” (ibid).

¹⁰⁴ Maria Teresa Rezende, “Forum of Environmental NGOs and Brazilian Industries” *PEFC News* 36 (March 2007), p. 5.

¹⁰⁵ *PEFC News*, “PEFC: Only European? Based On Merely a Handful of Criteria? Not For Indigenous People? No Social Dialogue...?”, 37 (May 2007), p. 2.

¹⁰⁶ PEFC Council, “Did you Know? PEFC Wants People to Manage Forests Sustainably”, fact sheet (April 2007), p. 3.

¹⁰⁷ No other reference to Austrian ENGOs occurs in PEFC’s newsletters prior to this edition, other than a mention in 2001 that “Environmental representatives underline that the realization of nature

conservation will be made possible on a larger scope through PEFC and will no longer be limited to small islands of land” (Gabriele Herzog, “Austria - More Than Three Quarters of Austria’s Forests Certified”, *PEFCC Newsletter* 9 (December 2001), pp. 6-7). The representatives making these statements are not named.

¹⁰⁸ Article 3.1, PEFC Council Statutes, As Approved at General Assembly 22 November 2002, p. 1.

¹⁰⁹ Chapter 2, Terms and Conditions, Annex 1, October 2004, p. 4

¹¹⁰ Article 3.6, PEFC Council Statutes, p. 2.

¹¹¹ PEFC Council, *Annual Review 2006* (Luxembourg: PEFC, undated) p. 7.

¹¹² Chapter 3.2, PEFC Council Technical Document, p. 6.

¹¹³ Mark Edwards, “Australia - A Change in the Woods”, *PEFC News* 16 (October 2003), p. 3.

¹¹⁴ PEFC Council, *Annual Review 2006*, p. 13.

¹¹⁵ Articles 1.1 and 5.11, PEFC Council Statutes, p. 1 and p. 3.

¹¹⁶ http://www.pef.org/internet/html/about_pefc.htm, accessed 14/06/2007.

¹¹⁷ Article 1.1, PEFC Council Statutes, November 2002, p. 1.

¹¹⁸ Article 3.1, PEFC Council Statutes, p. 1.

¹¹⁹ Article 5.1, PEFC Council Statutes, p. 2.

¹²⁰ Article 5.7, PEFC Council Statutes, p. 3.

¹²¹ Articles 5.5 and 5.5, PEFC Council Statutes, p. 1.

¹²² Gunnerberg, “General Assembly Synopsis”, p. 2; personal interview, 12/07/05. These are probably allusions to the WWF report of 2001, *PEFC: An Analysis*, and the evaluation undertaken by the forest consultancy Indufor Oy.

¹²³ Ibid.

¹²⁴ *PEFCC Newsletter*, “Guidelines Revision”, 14 (February 2003), p. 2.

¹²⁵ *PEFCC Newsletter*, “Revised PEFCC Guidelines Approved”, *PEFCC Newsletter* 15 (May 2003), p. 4.

¹²⁶ Article 6.2, PEFC Council Statutes, p. 3.

¹²⁷ Article 6.1, PEFC Council Statutes, p. 3.

¹²⁸ Article 6.6, PEFC Council Statutes, p. 4.

¹²⁹ Article 7, PEFC Council Statutes, pp. 4-5.

¹³⁰ Article 6.6.ii, PEFC Council Statutes, p. 4.

¹³¹ The other processes include the Near East Process, Leparterique process, Regional Initiative of Dry forests in Asia, ITTO Criteria and Indicators for Sustainable Management of Natural Tropical Forests, Criteria and Indicators for Sustainable Management in Dry-zone Africa and the Tarapoto

Proposal: Criteria and Indicators for the Sustainable Management of Amazonian Forests (PEFC Council, “PEFC Technical Document”, 29 October 2004, Chapter 4, p. 7).

¹³² Chapter 4, PEFC Technical Document, p. 6.

¹³³ PEFC, “Rules for Standards Setting”, Annex 2, 29 October 2004, Chapter 3.5.1, p. 3.

¹³⁴ Chapter 5, PEFC Technical Document, p. 8.

¹³⁵ Chapter 3.5.1, Rules for Standards Setting, p. 3.

¹³⁶ Chapter 3.5.3, PEFC Rules for Standard Setting, p. 3.

¹³⁷ PEFC, “Endorsement and Mutual Recognition of National Schemes and their Revision”, Annex 7, October 29, 2004.

¹³⁸ Chapter 3, Endorsement and Mutual Recognition of National Schemes and their Revision, p. 2, Chapter 6, Endorsement and Mutual Recognition of National Schemes and their Revision, p. 4.

¹³⁹ PEFC, “Certification and Accreditation Procedures”, Annex 6, 11 April 2005, Chapter 4, p. 3.

¹⁴⁰ Chapter 5, Certification and Accreditation Procedures, p. 4.

¹⁴¹ Ibid. It is not clear how or whether this has been enforced. See under Accountability below.

¹⁴² Chapters 6 and 7, PEFC Technical Document, pp. 9-11.

¹⁴³ PEFC, “Chain of Custody of Forest Based Products – Requirements”, Annex 4, June 17 2005.

¹⁴⁴ Chapter 8, PEFC Technical Document, p. 12.

¹⁴⁵ Chapter 4, PEFC Rules for Standard Setting, pp. 4-5.

¹⁴⁶ Ibid.

¹⁴⁷ *PEFC News*, “International Chain of Custody”, 18 (February 2004), p. 1.

¹⁴⁸ *PEFC News*, “New International PEFC Chain of Custody Released”, 22 (November 2004), p. 7.

¹⁴⁹ Glück et al., “Changes in the Governance of Forest Resources”, pp. 60-61.

¹⁵⁰ Jon Pierre and B. Guy Peters, *Governance, Politics and the State* (Basingstoke and London: Macmillan, 2000), p. 16.

¹⁵¹ Margaret Shannon, “What is Meant by Public Participation in Forest Certification Processes? Understanding Forest Certification Within Democratic Governance Institutions”, *Social and Political Dimensions of Forest Certification*, ed Errol Meiginger, Christopher Elliott and Gerhard Oesten (Remagen-Oberwinter: Forstbuch, 2003) pp. 179-198 at p. 179.

¹⁵² Errol Meidinger, “The Administrative Law of Global Private-public Regulation: The Case of Forestry”, *The European Journal of International Law* 17 (1) (2006), pp. 47-87, p. 70, Humphreys *Logjam*, p. 139. Humphreys concludes that it is the FSC that is exerting this “pull.”

¹⁵³ Gulbrandsen, “Sustainable Forestry in Sweden”, p. 349.

¹⁵⁴ Benjamin Cashore, Graeme Auld and Deanna Newsom, “Forest Certification (Eco-labelling) Programs and their Policy-Making Authority: Explaining Divergence Among North American and European Case Studies”, *Forest Policy and Economics* 5 (2003) pp. 225-247, at p. 227.

-
- ¹⁵⁵ Meidinger “The Administrative Law of Global Private-Public Regulation”, p. 70, Humphreys *Logjam*, p. 139. Humphreys concludes that it is the FSC that is exerting this “pull.”
- ¹⁵⁶ Meidinger “The Administrative Law of Global Private-Public Regulation”, p. 69.
- ¹⁵⁷ Eckhard Reh binder, “Forest Certification and Environmental Law”, contained in Meidinger, et al., *Social and Political Dimensions of Forest Certification*, ed. Errol Meiginger, Christopher Elliott and Gerhard Oesten (Remagen-Oberwinter: Forstbuch, 2003), pp. 331-352, at p. 351.
- ¹⁵⁸ Meidinger “The Administrative Law of Global Private-Public Regulation”, pp. 55-56.
- ¹⁵⁹ Gulbrandsen, “Overlapping Public and Private Governance”, p. 84.
- ¹⁶⁰ Eero Palmujoki, “Public-Private Governance Patterns and Environmental Sustainability”, *Environment, Development and Sustainability* 8 (2006), pp. 1-17 at p. 13. Such close governmental involvement is not just the case with PEFC, but also with other non-FSC schemes, such as CSA and LEI, all of which have had a high degree of government involvement, even if government officials have had less direct roles in formal certification processes (Meidinger “The Administrative Law of Global Private-Public Regulation”, p. 59).
- ¹⁶¹ Meidinger “The Administrative Law of Global Private-Public Regulation”, p. 59. This too is permitted in FSC but to a much more limited extent (*ibid*).
- ¹⁶² Meidinger “The Administrative Law of Global Private-Public Regulation”, p. 68.
- ¹⁶³ Reh binder, “Forest Certification and Environmental Law”, p. 340.
- ¹⁶⁴ Meidinger “The Administrative Law of Global Private-Public Regulation”, p. 68.
- ¹⁶⁵ Chapter 2, PEFC Council Technical Document, p. 3.
- ¹⁶⁶ Chapter 3.2, PEFC Council Technical Document, p. 6.
- ¹⁶⁷ *Ibid*.
- ¹⁶⁸ Article 3.1, PEFC Council Statutes, p. 1.
- ¹⁶⁹ Chapter 6, PEFC Rules for Standard Setting, p. 5.
- ¹⁷⁰ Vallejo and Hauselmann, *PEFC: An Analysis*, p. 6.
- ¹⁷¹ Chapter 5, PEFC Rules for Standard Setting, p. 5.
- ¹⁷² *Ibid*.
- ¹⁷³ Personal interview #2, 17/08/05; personal interview, 14/07/05.
- ¹⁷⁴ Personal interview #2, 05/07/05.
- ¹⁷⁵ Personal interview, 14/07/05; personal interview, 05/09/06.
- ¹⁷⁶ Personal interview, 17/08/05 and personal interview, 23/08/05.
- ¹⁷⁷ Personal interview, 11/07/05.
- ¹⁷⁸ Personal interview, 11/07/05. There was an alternative perspective amongst supporters of the system regarding those ENGOs who had chosen to be represented within PEFC. According to this perspective, different national schemes decided how to structure themselves. The question was

whether local NGOs were closer to the “national feeling” than big multinational groups, and therefore, whether their participation was more appropriate, or even better. Although there were discrepancies between schemes regarding NGO involvement, these simply reflected local and regional specificities (personal interview #1, 18/07/05).

¹⁷⁹ Personal interview, 17/08/05.

¹⁸⁰ Personal interview, 11/07/05.

¹⁸¹ Personal interview #1, 05/07/05.

¹⁸² Personal interview, 13/08/05.

¹⁸³ Personal interview, 14/07/05.

¹⁸⁴ Personal interview, 26/08/05.

¹⁸⁵ Personal interview, 05/09/06.

¹⁸⁶ Personal interview, 09/09/05.

¹⁸⁷ Personal interview, 09/09/05. One informant from this group discussed the motivations of those national groups who had got involved. Firstly, they wondered how aware these groups were of the international policies and political intricacies behind the competing schemes, and whether they had been “trapped” into participating in the system. Secondly, the interviewee saw national sovereignty as being an important factor in NGO decisions; NGOs like any other body, objected to being told what to do by international institutions. This resulted in a degree of resistance to FSC, and the NGOs that supported it, and there was a perception that FSC was an international body trying to impose its views on the national level. This had made PEFC appealing to some groups. Finally, the interviewee thought these NGOs had been influenced by the philosophy that as the scheme was more closely connected to forest owners they would be able to bring about significant improvements in management on the national level by being involved (personal interview, 12/07/05).

¹⁸⁸ Personal interview, 09/09/05.

¹⁸⁹ Personal interview #1, 18/07/05.

¹⁹⁰ Personal interview, 09/09/05.

¹⁹¹ Personal interview, 16/09/05; personal interview, 09/09/05.

¹⁹² Personal interview, 12/07/05.

¹⁹³ Personal interview, 16/09/05.

¹⁹⁴ Personal interview, 22/09/05; personal interview, 12/07/05. The dynamics of the relationship between forest owners and industry were described as follows: although private forest owners and industry might work together to promote a given form of certification, industry could go its own way, which might impact on private forest owners, particularly regarding wood supply (personal interview, 22/09/05).

¹⁹⁵ Personal interview, 12/07/05.

¹⁹⁶ Personal interview, 16/09/05.

¹⁹⁷ Personal interview #2, 22/08/05. The printing houses were described as being against the rights and interests of private landowners to manage their own forests, and this why they had sided with FSC (ibid).

¹⁹⁸ Personal interview #2, 22/08/05. The whole comment runs as follows:

The question is, who is really the stakeholder? Are environmental organisations stakeholders in this issue? They are not committed to the financial aspects; they are committed to the management? Other stakeholders are taking the responsibility for the whole issue. They are outsiders who are looking in on the forests (ibid).

¹⁹⁹ Personal interview, 01/09/06. These observations are worth quoting in full:

Once [the scheme] was more or less basically structured, they asked us, “Do you want to take part in it?” And we asked, “OK, who is part of your selective club? Are environmental NGOs there?” And they said, “Yes.” And we asked, “Who is there?” And then you could see that their idea of an environmental NGO was the hunters, for instance. The people who want to go freshwater fishing, those kinds of organisation. These groups were very close to the private forest owners intellectually. Our regional government said, “The way the PEFC is now organised is not a fully participatory process, so we do not participate.” Our regional government wanted the discussion about sustainable forest management to be a discussion that was representative of all the different views on forests in our region. You cannot just form a selective club with your own friends, and then leave others behind. That was not acceptable. So our regional government did not enter either. But they went ahead and developed their own system anyway (ibid).

²⁰⁰ Gulbrandsen “Sustainable Forestry in Sweden”, pp. 343-347.

²⁰¹ Ozinga, “The European NGO Position on the PEFC”, p. 7.

²⁰² Gulbrandsen “Sustainable Forestry in Sweden”, pp. 343-347.

²⁰³ Gulbrandsen, referring largely to Sweden but also commenting on Germany, the UK, US and Canada, “Sustainable Forestry in Sweden”, p. 352.

²⁰⁴ Ozinga, *Behind the Logo*, p. 23.

Much of the land in the north of Finland is public land, and reindeer herders were particularly dependent on Metsähallitus and the manner in which it managed production forests. The Sámi, whose reindeer needed grazing access to the arboreal and ground lichens in the unprotected old growth forest areas had been arguing for logging moratoria in late winter grazing areas since the 1990s. Although Metsähallitus had instituted a system of participatory planning and was obliged to negotiate with Sámi representatives, they had nevertheless been forced to institute lawsuits and file appeals to the United Nation’s Human Rights Committee. The Committee found the logging a violation of the Sámi indigenous rights, but forestry activities continued to expand, and the Sámi were again required to take Metsähallitus to court. The Sámi parliament had earlier demanded that forest management be conducted in Sámi areas under the P&C of the FSC. Herders claimed that the criterion relating to the Sámi’s traditional means of livelihood was not being met under the FFCS, nor had they been involved in developing the criterion relating to cooperation regarding husbandry and forestry. They did not consider the negotiations with Metsähallitus to be real, as they were not treated as equals (Liimatainen and Harkki, *Anything Goes*, pp. 26-27).

²⁰⁵ Humphreys, “The Certification Wars”, p. 36. The matter of indigenous rights had become all the more pressing for PEFC after the Municipality of Inari and the Regional Council of Lapland opposed new forestry set aside areas proposed for northern Finland. Discussions between the reindeer herding cooperatives, the Sámi parliament, Greenpeace and Metsähallitus had resulted in the cessation of logging affected by the conflict. Negotiations over the new logging plan centred on forests dominated by two species of lichen favoured by reindeer, but, if protected, would have led to an overall reduction in logging by 50%. Game and fishing interests argued that the forests were being overgrazed on account of excessive reindeer populations (Auvo Kaivola, “Ongoing Debate about Forestry and Reindeer Husbandry in Upper Lapland in Finland” *PEFC News* 25 (April 2005) p. 8).

²⁰⁶ NGOs occupied one seat in the commission, timber interests two, trade unions one and the Ministry of the Environment two, but decisions had to be taken by consensus. PEFC schemes were particularly scrutinised under the commission’s social criteria. NGOs provided information regarding the different schemes, but the timber industry refused to discuss the different schemes in isolation. The trade union offered a compromise whereby the PEFC-systems could sign a letter of intent to fulfil the relevant ILO Convention 169, but this was not accepted. In the beginning of March 2006, the timber industry insisted that PEFC should be treated as one system. However, since it had previously accepted the terms of reference for the procurement programme in an advisory committee in July 2005, it was unable to argue its position very effectively (Veerle Dosche, Greenpeace Belgium, email to the author, 03/04/06). In the end, for evaluation purposes, PEFC schemes were split into two groups: an “A” list for PEFC systems that were considered acceptable; and a “B” for PEFC systems that were the subject of NGO criticisms. List B covered 85 % of all PEFC-certified forests. Malaysian member scheme MTCC was not accepted on either list (ibid). PEFC responded to the commission saying that it was “regrettable that opinion, rather than facts assessed in an open and transparent process, appears to have guided the approach of the committee appointed to assist the Minister” (*PEFC News*, “Belgian Public Procurement Policy Includes PEFC”, 31 (May 2006) p. 2.). It should be noted that PEFC has been generally recognised as legal and sustainable by those European countries, which have initiated procurement programmes. PEFC has been included in the timber procurement policies of France in April 2005 (*PEFC News*, “PEFC Chosen for French Government Timber procurement Policy”, 25 (April 2005), p. 1), in the United Kingdom in August 2005, following amendments to its certification procedures (*PEFC News*, “UK Government Timber Procurement Policy Continues to Recognize PEFC Certified Timber, 26 (July 2005), p. 3, *PEFC News*, “UK Government Confirms PEFC as Source of Legal and Sustainable Timber” 35 (January 2007), p. 1) and in Germany in 2007 (*PEFC News*, “German Government Specifies PEFC”, 36 (March 2007), p. 1). Japan, not a part of the EU processes, also included PEFC in its public timber procurement policy (*PEFC News*, “Japanese Public Procurement Policy Chooses PEFC”, 31 (May 2006), p. 1) in 2006.

²⁰⁷ PEFC Council, “Position Paper: Tribal and Indigenous People, Local People, Local Communities, Forest Dependent Communities and the PEFC Council”, November 2005.

²⁰⁸ PEFC reiterated its own role as being confined to assessing nationally developed certification schemes (PEFC Council, “Position Paper”, p. 2). The paper stated that PEFC insisted upon, and only recognised, “the results of full national standards setting” (PEFC Council, “Position Paper”, p. 3). Intergovernmental processes were identified as being responsible for the rights regarding, and definitions of, anyone who lived in or near forestlands. National processes in turn were responsible for ensuring that all stakeholders, including indigenous peoples, and communities could “fully participate”, but this was at the local level. The policy stated that the views of these local interests were “considered along with all other stakeholders and consensus is required for all national schemes which are endorsed by PEFC Council.” Finally, the certification audit at the forest level ensured their views were also “considered” (ibid). As a result of these arrangements PEFC Council concluded that:

Indigenous and other local peoples can participate in both the development of the criteria for SFM, the standard setting process and in the public consultation process which accompanies a certification audit for the forest they live in, near or are dependent upon (ibid).

²⁰⁹ In the following year PEFC Sweden published its own arrangement “to ensure a balance between forestry and reindeer herding interests” (*PEFC News*, “PEFC Sweden Publishes Policy on Sámi Reindeer Herding”, 31 (May 2006) p. 1). It defined “how dialogue and collaboration between reindeer herders and the forestry sector” took place (ibid).

²¹⁰ One young NGO informant complained that youth were not seen as stakeholders in forest issues in their country. The level of inclusion was superficial because within the youth-related forestry initiatives it was invariably the over-fifties who occupied all the positions of influence. Youth was not powerful enough to wield more than a minor role (personal interview, 13/08/05). Another business sector informant in the same country disputed this arguing that youth interests were represented within the country’s national certification system (personal interview, 09/09/05).

In relation to indigenous people, certification had the potential to be a means of securing basic indigenous rights, which were threatened by current forestry activities, but indigenous people were effectively treated as second-class citizens when considering livelihood-related issues in forest management (personal interview, 26/08/05). One NGO argued that according indigenous people equal status with other interests undermined their rights. Considering them a “stakeholder” reduced the importance of their struggle to obtain recognition for their rights to their land. As “landowners” access to and recognition of land rights were crucial to their survival and livelihoods, and gave them a higher significance than other interests. Consequently, indigenous peoples should be referred to as rights holders, rather than stakeholders. Certification had the potential to assist them in gaining justice, but there was a danger that certification could circumvent higher-principle governmental decisions over the status of land. Indigenous people often had disputes that needed to be resolved first before matters pertaining to management could

be addressed. In such a situation it was not possible to give equal weight to everybody without denying or disregarding indigenous rights (personal interview #1, 05/07/05).

²¹¹ Personal interview, # 2, 05/07/05.

²¹² Personal interview #1, 05/07/05.

²¹³ The arguments were as follows: The system was open to them, it was a matter a choice that they were not involved (personal interview, 15/09/06); people could not be forced to participate, there was nothing that could be done if they made the decision to join another system (personal interview #1, 18/07/05); NGO behaviour was “purely a political thing...they did not want to come because they are protective of FSC” (personal interview, 12/07/05); NGOs wanted “to have a power monopoly for themselves and not real stakeholder processes” where all interests were promoted equally (personal interview, 09/09/05); NGO perceptions had some validity, but should be understood only in relative terms, when comparing NGO views on their participation in FSC compared to PEFC (personal interview, 22/09/05).

²¹⁴ Personal interview, 12/07/05.

²¹⁵ Personal interview, 15/09/06.

²¹⁶ Personal interview, 15/09/06.

²¹⁷ Personal interview, 09/09/05.

²¹⁸ Personal interview #1, 01/09/06.

²¹⁹ Email to PEFC Secretariat sent 01/11/07.

²²⁰ Personal interview, 09/09/05.

²²¹ Personal interview, 12/07/05.

²²² Personal interview #2, 22/08/05.

²²³ By way of example: personal interview, 05/09/06; personal interview #1, 18/07/05; and personal interview #1, 17/08/05.

²²⁴ Personal interview #1, 17/08/05.

²²⁵ Personal interview, 26/08/06.

²²⁶ Personal interview #2, 17/08/05. PEFC was very well connected to the established forest sector, and had good government contacts. This placed PEFC more in the mainstream than FSC and had provided access to funding and political contacts as well as lobbying capacity. The national structure of PEFC also meant it had connections to national forest authorities and governmental bodies, particularly in France, Austria and Finland. All this had resulted in far more money being channelled into PEFC in such countries that FSC, and government investment in FSC had been “quite an unequal thing” (ibid). One national NGO representative argued that PEFC had very strong government support in their country. They thought this was not justified, because certification was supposed to be a market initiative, and governments should not preference one system over another financially (personal interview #1, 17/08/05). Another national NGO representative from the same country attributed the strength of the system to the support from the

forest sector. This included the ability to pay people to lobby paper buyers or other clients that forestry in their country was sustainable (personal interview, 13/08/05). In addition, PEFC was particularly attractive to forest owners as system because unlike FSC, certification was basically free at the forest owner level (personal interview #1, 17/08/05). The position of indigenous interests was in marked contrast to forest owners. Lack of resources had led them to work with environmental groups who had assisted them to develop a common statement on the impacts of forestry on reindeer herding. This had been necessary because forestry interests had all the money and resources to be public in the media, and they wielded vast power in that domain in comparison to the herders (personal interview, 26/08/05).

²²⁷ Personal interview #1, 05/07/05.

²²⁸ Personal interview #2, 05/07/05.

²²⁹ Personal interview, 11/07/05.

²³⁰ Personal interview #1, 18/07/05.

²³¹ Personal interview, 16/09/05.

²³² Articles 6.7 and 6.8, PEFC Council Statutes, p. 4.

²³³ Humphreys, “The Certification Wars”, pp. 20-21.

²³⁴ Rehinder, “Forest Certification and Environmental Law”, p. 340.

²³⁵ Vallejo and Hauselmann, *PEFC: An Analysis*, p. 26.

²³⁶ Chapter 6, Certification and Accreditation Procedures, p. 4.

²³⁷ Vallejo and Hauselmann, *PEFC: An Analysis*, p. 5.

²³⁸ Mäntyranta, *Forest Certification*, pp. 146-154.

²³⁹ Ministerial Conference on the Protection of Forests in Europe (MCPFE, “Report on the Follow-Up of the Strasbourg and Helsinki Ministerial Conferences on the Protection of Forests in Europe”, *Follow-up Reports on the Ministerial Conferences on the Protection of Forests in Europe*, Volume 1, ed. Liaison Unit in Lisbon. (Lisbon: Ministry of Agriculture, Rural Development and Fisheries of Portugal, 1998)), p. 6, Cashore et al., *Governing Through Markets*, p. 14.

²⁴⁰ Having embraced the UNCED *Forest Principles* MCPFE determined at Helsinki to extend the concept of sustainable forest management by resolving to develop general guidelines for SFM and the conservation of biodiversity in Europe’s forests (MCPFE, “Sustainable Forest Management in Europe, Special Report on the Follow-up on the Implementation of Resolutions H1 and H2 of the Helsinki Ministerial Conference”, *Follow-up Reports on the Ministerial Conferences on the Protection of Forests in Europe*, Volume 2, ed. Liaison Unit in Lisbon. (Lisbon: Ministry of Agriculture, Rural Development and Fisheries of Portugal, 1998)), p. 257). These criteria are: 1) Maintenance and appropriate enhancement of forest resources and their contribution to global carbon cycles; 2) Maintenance of ecosystem health and vitality; 3) Maintenance and encouragement of productive functions of forests (wood and non-wood); 4) Maintenance,

conservation and appropriate enhancement of biological diversity in forest ecosystems; 5) Maintenance and appropriate enhancement of protective functions in forest management (notably soil and water); 6) Maintenance of other socio-economic functions and conditions (MCPFE, *Follow-up Reports*, Volume 2, p. 258)).²⁴⁰

Special emphasis was given at the Helsinki conference to “cooperation for enhancing the development of the forest sector” (MCPFE, “Report on the Follow-Up”, p. 1). The criteria were described by Pekka Paatosari, at that stage Forestry Affairs Attaché at the Finnish Embassy in London, as providing for the: “assessment of how different countries have progressed in their efforts to follow the principles of sustainable forest management and the conservation of biological diversity” (Mäntyranta, *Forest Certification*, p. 123, MCPFE, “Report on the Follow-Up”, p. 6). Luis Costa Leal, later to become a PEFC Council Director, was then forest advisor to the Portuguese Minister for Agriculture and responsible for the preparation of the Lisbon conference (*PEFC News*, “Election of New Board of Directors”, 17 (November 2003), pp. 5-8 at p. 8). He identified the outcomes of the MCPFE processes at that time as constituting “a new mechanism for forest cooperation in Europe”, resulting in an “appropriate framework for action” (MCPFE, “Report on the Follow-Up” p. 1). The PEOLG themselves were developed with forest managers and owners and government decision-makers in mind, and for application at the sub-national level, but to be implemented effectively required local adaptation, and it was only at this point that “participation of all interested parties should be encouraged” (MCPFE, “Sustainable Forest Management in Europe”, p. 258). The broader context in which these guidelines were developed therefore happened externally to PEFC, at a lower level participation of interested parties, and not within the PEFC system itself.

²⁴¹ Ozinga, *Behind the Logo*, p. 22, footnote 48.

²⁴² Personal interview #1, 17/08/05.

²⁴³ Personal interview #1, 17/08/05; personal interview #2, 17/08/05; personal interview, # 2, 05/07/05.

One NGO representative working on a national level questioned the impartiality of the chairperson during the development of the standard. This individual was a bureaucrat in the country’s ministry of forestry. Questions regarding whether the national standard would follow PEFC or FSC had gone unanswered, and interested parties had been allocated to FSC-style chambers without consultation. The chairperson had challenged the NGO representative as to whether they intended to participate in the process or not. At that point they had withdrawn from the scheme because it had failed to respond to their questions (personal interview, 23/08/05). A second NGO informant corroborated this view. The national scheme had originally been proposed and driven by the government and private forest owners, whose views largely coincided. Informally, NGOs had been told that once the standard was developed it would be sent to the FSC for approval. There was no formal agreement, or even a name, for the standard at that time. After several of their proposals to improve the scheme were rejected, NGOs left. Shortly after the NGOs

left, the government, forest owners, forest workers, unions and industry decided not to send it to FSC, but to create a national certification scheme. Shortly after that the PEFC was created on a pan-European level. The national scheme was certified under the programme. This stakeholder thought it inappropriate for the PEFC to have endorsed their national scheme, since it was really the national scheme that led to the creation of PEFC (personal interview #1, 17/08/05).

One, third sector, informant had a different perspective on the same situation. This scheme was one of the first certification standards created, and it was not a question of FSC/PEFC rivalry, as PEFC had not been around. It was correct on one level as events after the NGO withdrawal demonstrated, but the interviewee claimed that it was never stated anywhere that it would be a PEFC or an FSC standard, it was to be a national standard. It was only after 1996 that the question was raised as to whether to follow FSC or not. It was at the point when the answer “not necessarily” was given that the international and national positioning in favour of one scheme or another began. This positioning turned the whole situation into a political matter (personal interview #1, 22/08/05).

²⁴⁴ One NGO interviewee speaking about their national scheme placed a high degree of responsibility on the scheme for failing to give private forest owners any real role in the system, since a forest owner did not have to do anything to become certified. After the first release of the standard, NGOs had identified fifty examples where they believed the criteria had been violated. The revised standard had failed to address the specific ecological concerns raised (personal interview #1, 17/08/05). Another interviewee from the same country commented that they managed the forest of a relative, who had never been obliged to sign any agreement, nor commit to any criteria. When the system claimed that 90% of the country’s forests were certified, it was also including forests such as this. The way the standard functioned at the moment was that the only requirement on the landowner was at the point of timber purchase, when the purchaser asked the landowner if they were certified. This interviewee considered such an approach as resulting in a system of “certification by logging”, which they considered the “totally wrong way of seeing it.” It meant there was no risk that landowners could ever break the standard because there were no specific requirements on them. The standard was so weak and unclear that even large owners with multiple assets scattered across the country could not violate it (personal interview, 23/08/05). One informant from the third group of subjects, and who was also a private forest owner in the same country, disputed this second criticism. They were prepared to guarantee that every forest owner was committed to certification and knew what it entailed. They might not understand its details but they knew it affected their forests. When the landowner came to sell their wood, the contractor was obliged to ask if they knew their forest was certified. They could not sign the contract without answering this question. Without such a contract it was impossible to sell the timber. The contractor could always explain any details about certification that the landowner did not know. It was not possible to undertake forest assessment with every individual forest owner. This was already covered by national legislation. All the certifier needed to do was check with the authorities. This avoided the unnecessary duplication of systems such as FSC, where instead of

trusting the forest organisations to do their job, the information was gathered separately. There was no need to generate new information when the authorities already had all the registers of forest owners, and activities undertaken were available for inspection. The process was still independent (personal interview #2, 22/08/05).

²⁴⁵ Personal interview #2, 05/07/05.

²⁴⁶ Personal interview #1, 22/08/05.

²⁴⁷ Personal interview, 12/07/05.

²⁴⁸ Personal interview #1, 22/08/05. For them ‘non-governmental’ implied that certification was not led by government, and should not be overruled by government. Government needed to be involved to ensure that they were working in the same direction as other private players were. It then became a question of how to get governments involved in the process, and that varied considerably in different parts of the world (ibid). One business interviewee portrayed perceptions regarding the role of government in forestry as evolving. Certification was originally understood as a response to the failure of Rio to address forestry, and as a private initiative made on behalf of governments, since they were not doing their job properly. This had worked well, and at that time everyone wanted to keep governments out of certification. Now, because the best door for accessing European markets was through government timber procurement policies, the preference was to bring governments into certification, as timber procurement was worth billions of Euros. By involving governments more directly, the argument was now that certified timber could both increase its market share, and work as a regulatory mechanism for banning all forms of illegal logging. By using governmental processes to promote itself, certification was no longer being presented as a voluntary market instrument but as proof of legality. This change, they admitted, “might be a bit frightening” (personal interview #1, 18/07/05).

²⁴⁹ Personal interview, 28/08/05; personal interview, 12/07/05.

²⁵⁰ Personal interview, 12/09/06, personal interview #1, 17/08/05 and personal interview, 22/08/05.

²⁵¹ http://www.faf.de/paneuro_e.htm, accessed 20/09/1999.

²⁵² Chapter 3, Rules for Standards Setting, p. 3.

²⁵³ Chapter 3.5.2, PEFC Rules for Standard Setting, p. 3.

²⁵⁴ Chapter 6, PEFC Rules for Standard Setting, p. 5.

²⁵⁵ Chapter 6, Endorsement and Mutual Recognition of National Schemes, p. 6.

²⁵⁶ Chapter 3.5.1, Rules for Standards Setting, p. 3. In Australia, for example, the national scheme was developed without the involvement of either environmental NGOs or indigenous peoples (Ozinga, *Footprints in the Forest*, p. 59). Responsibility for the scheme was subsequently taken over by a private company, Australian Forestry Standard Limited (*PEFC News*, “Australia – A Change in the Woods”, 16 (October 2003), p. 3).

²⁵⁷ Article 5.13, PEFC Council Statutes, p. 3.

-
- ²⁵⁸ Gulbrandsen “Sustainable Forestry in Sweden”, pp. 343-347.
- ²⁵⁹ Vallejo and Hauselmann, *PEFC: An Analysis*, p. 24, referring to Markku Simula, “Key Elements in the International Certification Procedures: Review of the Pan European Certification”, paper presented to the Pan-European Forest Certification (PEFC) Seminar and Workshop, Würzburg, April 19-21, 1999.
- ²⁶⁰ Personal interview #1, 05/07/05.
- ²⁶¹ Personal interview #1, 17/08/05, personal interview #1, 05/07/05, and personal interview, 11/07/05.
- ²⁶² Personal interview #1, 05/07/05.
- ²⁶³ Personal interview #1, 17/08/05.
- ²⁶⁴ Personal interview #1, 05/07/05.
- ²⁶⁵ Personal interview #2, 05/07/05.
- ²⁶⁶ Personal interview, 12/07/05.
- ²⁶⁷ Personal interview #1, 18/07/05.
- ²⁶⁸ Personal interview #1, 22/08/05.
- ²⁶⁹ Personal interview #2, 22/08/05.
- ²⁷⁰ Personal interview, 25/08/05.
- ²⁷¹ Savcor Indufor Oy, *Effectiveness and Efficiency of FSC and PEFC Forest Certification on Pilot Areas in Nordic Countries* (Helsinki: Federation of Nordic Forest Owners’ Organisations, 2005), p. 94.
- ²⁷² Article 5.12, PEFC Council Statutes, p. 3.
- ²⁷³ Vallejo and Hauselmann, *PEFC: An Analysis*, pp. 6 and 23.
- ²⁷⁴ Reh binder, “Forest Certification and Environmental Law”, p. 340.
- ²⁷⁵ Finnish Forest Industries Federation, “Finnish Forest Industries Need Raw Material from Certified Forests”, media release 07/09/00.
- ²⁷⁶ Personal interview #2, 05/07/05.
- ²⁷⁷ Personal interview, 23/08/05.
- ²⁷⁸ Personal interview #2, 17/08/05.
- ²⁷⁹ Personal interview #1, 17/08/05.
- ²⁸⁰ Personal interview, 09/09/05; personal interview, 12/07/05.
- ²⁸¹ Personal interview, 16/09/05.
- ²⁸² Personal interview #1, 18/07/05. They elaborated that it seemed that the more democratic the world became, the more the pressure increased to have stakeholder consultation and participatory processes. Once people exercised their right to vote, they had already sent their message. By asking for greater consultation and participation they were showing that they did not believe in the

democratic value of popular elections. It now appeared that that they would rather scrap this approach and replace it with a multi-stakeholder process comprised of unelected representatives (ibid).

²⁸³ Personal interview #1, 22/08/05. This interviewee could not conceive of a situation where a landowner who had managed their forest sustainably for ten or fifteen generations should be told one day by some NGO “off the street” that their forests were not well managed, and ten per cent should be protected. This decision should come from the bottom up, in order to gain the commitment of private forest owners. PEFC took account of the voices of private forest owners, and the scheme was based on their opinions. The interviewee expanded further, commenting that people were more accustomed to solving problems through legislation and regulation. Because certification standards were not really very different from regulation, the democratic opportunity for stakeholders to influence the decision was through the traditional regulatory process. Bypassing these democratic processes and established democratic institutions was something new to forest owners, and difficult for them to accept. They further argued that landowners had already fought with the government to gain their own independence, national sovereignty and operating framework. Forest certification was a new element, and represented greater uncertainty over the long run because there was no established experience, and the ground rules were always changing (ibid).

²⁸⁴ Susan Summers Raines, “Perceptions of Legitimacy and Efficacy in International Environmental Management Standards: The Impact of the Participation Gap”, *Global Environmental Politics* 3 (3) (2003), pp. 47-73, at p. 52.

²⁸⁵ Article 5.9, PEFC Council Statutes, p. 3.

²⁸⁶ Article 6.2, PEFC Council Statutes, p. 4.

²⁸⁷ Article 6.6.ii, PEFC Council Statutes, p. 4.

²⁸⁸ Chapter 2, PEFC Terms and definitions, p. 2.

²⁸⁹ Chapter 3, Rules for Standards Setting, p. 3.

²⁹⁰ Chapter 2, PEFC Terms and definitions, p. 2.

²⁹¹ PEFC, “PEFC Council Minimum Requirements Checklist”, GL 2/2005 revised 28 April 2005, p. 2-3 and Chapter 2, PEFC Terms and Definitions, p. 2.

²⁹² Vallejo and Hauselmann, *PEFC: An Analysis*, p. 30.

²⁹³ Chapter 3.5.3, PEFC Rules for Standard Setting, p. 3.

²⁹⁴ Chapter 6, Endorsement and Mutual Recognition of National Schemes and their Revision, p. 4-5. This assessment process was heavily criticised by ENGOs in Australia, who accused the consultant of “misrepresenting community participation” and of repeating “a gross misrepresentation about the motives for ENGO’s withdrawal from the scheme” (The Wilderness Society, *Certifying the Incredible, The Australian Forestry Standard. Barely Legal and not Sustainable*” (No location: The Wilderness Society, 2005), p. 18).

-
- ²⁹⁵ Chapter 6, Endorsement and mutual Recognition of National Schemes and their Revision,
- ²⁹⁶ Personal interview #1, 17/08/05.
- ²⁹⁷ Personal interview #2, 05/07/05.
- ²⁹⁸ Personal interview #1, 05/07/05.
- ²⁹⁹ Personal interview, 23/08/05.
- ³⁰⁰ Personal interview, 23/08/05 and personal interview #2, 17/08/05.
- ³⁰¹ Personal interview, 22/09/05.
- ³⁰² Personal interview, 12/07/05.
- ³⁰³ Personal interview #1, 22/08/05. In the case of Europe, it was important to understand the background to forest ownership. Forest owners who had occupied their property for generations were simply not culturally attuned to the idea of supporting a standards development process in which other groups determined how their land should be managed into the future. Such an approach might possibly be conceived for state forests, but it should not even enter into consideration for private property. One interview subject from the third group of informants echoed this view. They agreed that participation was all about stakeholders being given a chance to influence the decision making process, but opinion was deeply divided over the chamber-based system favoured by NGOs, and found in the FSC system (personal interview, 09/09/05).
- ³⁰⁴ Chapter 10, PEFC Technical Document, p. 13.
- ³⁰⁵ Chapter 3, Rules for Standards Setting, p. 3.
- ³⁰⁶ Chapter 4, Rules for Standard setting, p. 4.
- ³⁰⁷ PEFC, “Basis for Certification Schemes and their Implementation”, Annex 3, 29 October 2004, at p. 8.
- ³⁰⁸ Gulbrandsen “Sustainable Forestry in Sweden”, pp. 343-347. See also Vallejo and Hauselmann, *PEFC: An Analysis*, p. 24-25.
- ³⁰⁹ Yrjö-Koskinen et al, *Certifying Extinction*, p. 9, referring to Finland, where the following observation was made:
- A dispute settlement body exists to deal with any complaints made under the FFCS, but there is no provision for complaints to be filed by interested parties such as environmental organizations or reindeer herders. It is therefore unsurprising that that no complaints have ever been filed (ibid).
- ³¹⁰ Personal interview #1, 17/08/05.
- ³¹¹ Personal interview, 23/08/05.
- ³¹² Personal interview, 26/08/05. This informant explained that reindeer herding cooperatives had been in dialogue with the forest managers for twenty years, for others, it had been fifty years. Herders had pointed out that cutting on their winter grazing areas would affect the herds, and the people, but the state manager Metsähallitus did not see that, nor did they recognise the reindeer herding system used. Metsähallitus also had a habit of selling off public lands to private interests, and herders were not informed. Having reached a situation of formal conflict with state forest

managers, the reindeer herders' cooperative formulated a statement of grievances, which they took to the Ministry for forestry. The statement explained that the herders had been in negotiation with managers for decades and that they had repeated continuously that logging was destroying reindeer pastures. They did not want logging to continue, but it had had no effect, and it carried on regardless. They had thought that by going to a "higher decision-maker", they would be able to explain that they were no longer able to cope with Metsähallitus, and needed things to change. That had been in 2002. Negotiations processes had been ongoing, but they logging kept going on as if nothing had happened. Following a failed attempt to negotiate with managers at meeting in mid 2005 the Sámi Council (from Russia, Sweden, Norway and Finland) had determined to intervene as well. They were so shocked by forest management activities on reindeer herding, that they decided to work on behalf of the local reindeer herders' against the state management agency. The informant further reported that they had complained to the certifier of operations in their region that the forest management agency was not meeting their social criteria relating to indigenous peoples. The certifier had told them they needed to demonstrate that they had legal evidence that the forest manager was not meeting the requirements. When the certifier had been informed that the matter was before the UN Human Rights Committee, they had responded by saying the area affected – 2,500 square kilometres - was not large enough to challenge the validity of the certificate, which covered 90% of identified indigenous territory in the country (ibid).

Another NGO informant reported that the reindeer herders had appealed to the United Nations Human Rights Committee in October 2005, who in turn had communicated to the government that logging should be suspended in the region to give indigenous interests time to gather information for a legal action against the state management agency. A logging moratorium had been imposed to allow for the collection of information, formal actions against the agency commenced in 2006, and the moratorium was extended for a further six months. Without the intervention of NGOs to support the Sámi, followed by a change in attitudes regarding the FSC amongst some industry players, and finally UN intervention, this informant did not think either the ministry or the government would have shifted. The conflict had been elevated to a whole new level, because the discussion was now about human rights, and it was not just a case of another weak sector – the NGOs – working with the Sámi. As a result of these developments the regional forest manager had been replaced and had subsequently also been allegedly charged with discrimination against NGOs by the police (supplementary interview, 11/09/06).

³¹³ Personal interview, 14/07/05.

³¹⁴ Personal interview, 11/07/05. This observation contradicts the comments of another informant that it was the FSC's tri-cameral decision making process, which segregated interests that resulted in unnecessary conflict amongst stakeholders (personal interview #1, 22/08/05).

³¹⁵ Personal interview #2, 22/08/05.

³¹⁶ Personal interview, 09/09/05.

³¹⁷ Gulbrandsen, "The Effectiveness of Non-State Governance Schemes", p. 138.

³¹⁸ Humphreys, “The Certification Wars”, p. 19.

³¹⁹ Ozinga, “The European NGO position on PEFC”, p. 5.

³²⁰ Mäntyranta, *Forest Certification*, p. 203.

³²¹ MCPFE, “Sustainable Forest Management in Europe”, p. 259.

³²² MCPFE, “Sustainable Forest Management in Europe”, p. 258.

³²³ Ozinga, *Footprints in the Forest*, p. 15, quoting from ECOSOC document E/CN.17/1997/12, “Report of the Ad Hoc Intergovernmental Panel of Forests on its Fourth Session,” March 20, 1997.

³²⁴ Hans J.H. Verolme, William E. Mankin, Saskia Ozinga and Sophia Ryder, *Keeping the Promise? A Review by NGOs and IPOs of the Implementation of the UN Inter-governmental Panel on Forests “Proposals for Actions” in Select Countries* (Washington: Biodiversity Action Network – Tides Project/Global Forest Policy Project, 2000), p. 9.

³²⁵ Personal interview #2, 05/07/05 and personal interview #2, 17/08/05. One business interviewee was also of this view, and did not see that the PEFC served the same policy purposes as FSC. It had certainly evolved from a counter-offensive into a “promotional tool now”, but those were its origins (personal interview, 22/09/05).

³²⁶ Personal interview, 23/08/05.

³²⁷ Personal interview, 14/07/05.

PEFC was not considered as strong as FSC on social matters, and in terms of compliance and implementation of forest management operations in the presence of unresolved indigenous rights displayed major weaknesses (personal interview, 05/09/06; personal interview #1, 05/07/05). Reporting against the criteria was so weak according to one interviewee that it was considered sufficient if the forest manager simply told the certifier over the telephone that they were fulfilling the criteria. Everything was formulated in such a manner that it made no difference whether the criteria were there or not, particularly in regard to indigenous issues, and indigenous stakeholders were not formally included in the auditing processes. Both the national legislation and certification criteria covering indigenous rights in their country provided no protection at all. Forest managers and the paper companies carried on as if the legislation and the criteria simply did not exist (personal interview, 26/08/05). In terms of the forest owners, the system was so strongly biased towards forest interests, with all the necessary arrangements undertaken by the timber buyers, that they did not have to do anything but sit back and gain certification (personal interview, 23/08/05). In the same country, according to a third NGO informant, national standards had implemented somewhere between one and three alternations to national legislation, and in key environmental criteria, such as threatened species, the standard had simply lifted sections from the national legislation. They considered the blurring between national certification and national governmental agencies to be problematic. They claimed government officials did much of the work relating to monitoring and controlling forest management activities, and certifiers generally went to them for

information, making the system incredibly cheap (personal interview #1, 17/08/05). A fourth NGO commented that once NGOs left this particular national system, the standard actually got worse (personal interview, 23/08/05).

³²⁸ Personal interview #1, 05/07/05.

³²⁹ Personal interview, 26/08/05.

³³⁰ One informant pointed to the changed attitudes at a peak level in the Confederation of European Private Forest Owners (personal interview #2, 05/07/05). At first CEPF sought to boycott anything on the EU level that related to certification, and to promote labels of origin instead. Over the years this had evolved away from an oppositional boycott to a counter-initiative. This constituted huge progress from the point of origin. Furthermore, over the years, because of the power of the FSC, they had been dragged into incorporating a lot of things into their own system that they had had no intention of doing at the beginning. They had moved from wanting nothing, to a label of origin, to accepting certification, and finally, to taking ownership of the PEOLG. Even though forest owners still did not implement anything, it was nevertheless possible to see “a seriously big shift” (ibid). The third interviewee did not think this shift in forest owner attitudes could have occurred if only FSC had existed. As an instrument generated by forest owners, PEFC had meant that they had to become engaged in the certification debate with other groups in society. Without PEFC it might have been easier for them to disassociate themselves from the debate, but now there was discussion in most countries amongst private forest owners about developing standards. This not happened amongst private, small and medium forest owners in the FSC; at least with their own scheme there “was a kind of engagement.” The crucial issues for PEFC were to acknowledge and strengthen the rights of forest peoples, improve forest management, and provide for balanced involvement amongst all parties in decisions made about forests (personal interview #1, 05/07/05). Another felt that both PEFC and FSC had strengthened the position of union interests when it came to bargaining new agreements with companies. The existence of these schemes, combined with environmental NGOs acting as watchdogs had ensured that negotiated contracts were respected and followed (personal interview, 05/09/06).

³³¹ Personal interview #1, 05/07/05.

³³² Personal interview #1, 17/08/05; personal interview #2, 17/08/05; personal interview, 13/08/05; personal interview, 14/07/05; personal interview, 23/08/05. These comments are worth describing in more detail. PEFC’s intention had never been to improve anything, and this had been apparent from early on. The scheme never really responded to any substantive criticisms, but somehow still promoted the system’s forest management as sustainable (personal interview #1, 17/08/05). Another informant reiterated this view, and believed PEFC to be little more than a communication platform, stemming from the conviction that no change was needed in European forest management (personal interview #2, 17/08/05). Two NGOs from the same country thought that the forest sector in their country needed a green label to sell their timber in the face of market pressure from FSC (personal interview #1, 17/08/05 and Personal interview, 13/08/05). They

developed their own system and fixed their standard so they did not have to change anything, or only minimally. The label had been designed so NGOs had no effect, and the fact that all players in the forestry sector were happy with it proved that it “sucked” (personal interview, 13/08/05). Another interviewee from a different country was of the opinion that the certified companies had showed quite clearly that they had no intention of being swayed by environment groups (personal interview, 14/07/05). PEFC provided a smokescreen for those very forest owners, who had no intention of changing their practices, or recognising indigenous rights (personal interview #1, 05/07/05). Another NGO representative provided some anecdotal corroboration. They claimed that they knew of one company, which after talks about their management problems with NGOs had stalled, merely carried on with “business as usual” with no intervention from PEFC (personal interview, 23/08/05).

³³³ Personal interview, 23/08/05.

³³⁴ Personal interview, 09/09/05.

³³⁵ Personal interview, 22/09/05.

One informant from the third group discussed this at some length, providing an anecdotal insight into PEFC attitudes. Initially, they admitted, forest owners had questioned the value of forest certification in Europe. Since forest management was already sustainable certification had no added value. Nowadays, owners knew and understood the concept of certification, but they did not worry overly about it, because it only came into force at the point of the timber sale. It was not possible to place the kind of requirements they wanted on private land, because forestry in such a context dealt with private interests and private forests. Such requirements might be realistic for state-owned forests, but not generally. The interviewee accepted nevertheless that forest management must continually improve, but the requirements of environmental groups were too demanding, and not at all realistic. These “crooks” also made unsubstantiated environmental claims; they should stick to the scientific facts, but they never did (personal interview #1, 22/08/05).

Another business interest argued that the competition between PEFC and FSC was not about sustainable forest management, because that was now commonly accepted and agreed upon. For industry it had been, and still was, much more about branding and market share. Industry had shown interest in PEFC initially because it did not want a monopoly determining what would be labelled as sustainable, and this was still the position today. Industry had given its support to the one alternative they considered credible. This had provided mills with options when it came to sourcing timber. The fact that most of the competition for the certified market was over the “nice part of the cake” in the US, Canada and Europe, while illegal logging was uncertified and rampant elsewhere, proved that the main angle was to make money (personal interview #1, 18/07/05).

Finally, one business informant argued that PEFC was not about improving management, but the development of business-to-business certification. Any changes, that had come about in the system in response to criticisms were superficial and cosmetic. The core elements remained

unchanged, which was intentional. This included attitudes regarding stakeholder participation and balanced decision making, both of which were designed advantage forestry interests. PEFC would lose its reason for existence if these elements were changed. PEFC strength lay mostly in its public relations value (personal interview, 22/09/05).

³³⁶ Personal interview #2, 22/08/05.

³³⁷ Personal interview, 15/09/06.

³³⁸ Personal interview, 25/08/05.

³³⁹ Personal interview #1, 01/09/06.

³⁴⁰ Personal interview #2, 22/08/05.

³⁴¹ According to the NGO analysis, European forest owners realised that they could not get away with labels of origin as a response to forest certification, and saw that they could develop a systems-based certification system built around the Helsinki criteria. This was a clever move, because Helsinki had nothing to do with forest certification; it was a reporting mechanism for national governmental forest programmes. They concluded that PEFC had essentially converted a process, which bodies such as FAO had deemed inappropriate for forest management unit level certification, and claimed it as their own. The Helsinki criteria were European wide, supported by governments. PEFC had “cornered” the market, and all sorts of people who did not understand what had happened supported the process. As a result, the PEFC gained a level of support from both industry and governments that the FSC never had. Later, the scheme had required national systems to add the Pan European Operational Level Guidelines (PEOLG – see also under Problem Solving below) to their programmes, but not all schemes had done this. This had created a situation where PEFC demanded one thing internationally on paper, but even on paper it had not been implemented on the national level, let alone been translated on the ground. This interviewee argued that a majority of PEFC’s endorsed schemes did not even meet the guidelines (personal interview #2, 05/07/05). One environmental stakeholder did identify PEFC’s adoption of the governmental Helsinki and Montréal processes as providing the structural potential for systemic improvement, but this was a potential only (personal interview, 12/09/06).

The business analysis was that the decision to adopt PEOLG had worked out well for private forest owners, and had become one of the strengths of the PEFC. As a flow on from Helsinki, the PEOLG had been developed with small forest owners in mind, on account of the forest ownership structure in Europe, and they fitted with European conditions much better than FSC. The fact that the guidelines had arisen from a government process, which included “a true stakeholders’ process”, had generated “unanimous support” for their adoption (personal interview #1, 18/07/05).

The first interviewee from the third group provided their perspective on the history behind Helsinki. Having developed C&I to determine what was happening in Europe’s forests, the debate had arisen at the Ministerial Council as to whether they could be related to forest certification and what the role of such governmental processes should be. Certification itself was not an instrument to follow forest conditions, but these conditions could be tracked through the governmental C&I

process, which would allow for data collection, forest monitoring, and stakeholder participation. Forest certification was identified as a voluntary market instrument that should remain separate from government, but the decision was made to use the Helsinki C&I as a basis for certification in Europe. Pan European forest certification had arisen as a result. PEFC was a realistic approach to forest certification that used “available infrastructure”, like the PEOLG, which could be applied to local conditions (personal interview #1, 22/08/05). The second informant from this group had a strikingly alternative perspective:

The PEFC originally did not really use the Pan European Operational Level Management Guidelines, no, they just picked some of the ideas out of the C & I of the Helsinki Criteria that more or less underpinned their own vision of sustainable forest management, but they were very selective. They left out some of the more difficult parts for the private forest owners, things that really cost money, like maintaining dead trees, for instance. They left some of those things out, but they were not very honest in their translation of the MCPFE ideas, and the Helsinki Criteria and Indicators, and the PEOLG – and they used that for the basis of the PEFC certification system (personal interview, #1 01/09/06).

³⁴² Personal interview, 28/08/05.

³⁴³ Humphreys, “The Certification Wars”, p. 20.

³⁴⁴ MCPFE, *Follow-up Reports*, Volume 2 p. 258.

³⁴⁵ Humphreys, “The Certification Wars”, p. 20.

³⁴⁶ Cashore et al, *Governing Through Markets*, p. 14, following Ozinga, *Footprints in the Forest* and Eric Hansen and Heikki Juslin, *The Status of Forest Certification in the ECE Region* (New York and Geneva: United Nations, Timber section, Trade Division, UN Economic Commissions for Europe, 1999).

³⁴⁷ Ibid. This view is also expressed one informant who commented:

There was concern about consumers seeing various acronyms and labels, and confusing everything. And that of course has happened even with retailers, and institutional buyers to some extent. So we perceived that threat. We saw basically the threat that counter-initiatives by creating confusion, and by inserting bad examples in the certification context, could actually wear down and blunt the tool of certification (personal interview #2, 17/08/05).

³⁴⁸ Ozinga, *Behind the Logo*, p. 18.

³⁴⁹ Ibid, referring to Sweden. See also Yrjö-Koskinen et al, *Certifying Extinction* pp. 11-19 (referring to Finland).

³⁵⁰ Vallejo and Hauselmann, *PEFC: An Analysis*, p. 8, referring to PEFC certification in Europe.

³⁵¹ Personal interview, 23/08/05.

³⁵² Personal interview, 13/08/05.

³⁵³ Personal interview #1, 17/08/05.

³⁵⁴ According to this analysis PEFC’s governance was not conducive to improving forest management because it did not deliver on “those fundamental and principal requirements for a certification scheme” including transparency and balanced input from the different interests involved in land use decision making (personal interview #1, 05/07/05). None of the policy drivers

behind PEFC were really oriented towards better forest management, but rather to “educate” the consumer about the good forest management that was already in place. Europe had the best forestry, and all that was needed was to inform the ignorant consumer and the general public that European management was not devastating the forests, as in the tropics (personal interview #1, 17/08/05).

³⁵⁵ Personal interview #2, 17/08/05.

³⁵⁶ One NGO informant identified a number of general weaknesses relating to the scheme’s design and governance, standards setting, certification procedures, accreditation, and chain of custody and product claims. They felt that the lack of “reliable independent assessment through the certification process...was system wide.” This meant that it was not at all clear if PEFC was delivering what its documentation required on the ground (personal interview, 11/07/05). As an umbrella scheme PEFC lacked clear benchmarks, minimum thresholds, and forest management unit level requirements (personal interview #1, 05/07/05). The commonly mentioned exceptions were Sweden and the UK (personal interview #1, 05/07/05, personal interview #2, 17/08/05 and personal interview #2, 05/07/05).

³⁵⁷ Personal interview, 12/07/05.

³⁵⁸ Personal interview, 09/09/05.

³⁵⁹ Personal interview #1, 18/07/05. They did not see this as a problem; what mattered was that the systems operated in a generally comparable fashion. Such issues were important, but this interviewee believed they did not relate directly to the performance of the system (ibid). Another informant did see a difference between FSC and PEFC and identified a design fault whereby PEFC standards, which did contain performance requirements, were still verified by certifiers using systems-based assessment methods. This did not matter very much for business-to-business product declarations, but such methods were insufficient for consumers who wanted to know exactly how forests were managed (personal interview, 12/07/05).

³⁶⁰ Interview with government representative #1, 01/09/06. This informant commented on the expectations of governments regarding performance. Governments were not overly worried as to how certification institutions structured themselves, and what processes they followed. They were more concerned that the standards such institutions developed met a certain level, which was more or less compatible with governmental forest policy and official definitions of sustainable forest management. Consequently, governmental forestry administrations preferred to concern themselves with examining the basic requirements for sustainable forest management that standards described (ibid).

³⁶¹ Personal interview #1, 01/09/06; personal interview, 28/08/05.

It is worth noting that some informants questioned the contribution of forest certification per se to solving forest management problems, and particularly in terms of its ability to tackle illegal logging (personal interview #2, 22/08/05). One asked whether it existed to raise sustainability to a higher level, or simply to guarantee purchasers that the wood they had bought from a given region

could be relied on as “ok.” They did not believe that forest certification had been able to influence the management of tropical forests. If it did not work there, what use was it? In terms of its application to managed forests, it had led to some progress in sustainability, but the interviewee wondered whether some other tool should be used for problematic, tropical areas. The problem of illegal logging brought certification closer to government policy making, and it might be possible to use it to achieve some progress in that direction. However, this might mean abandoning the current concept, which was not necessarily the most efficient approach; the best solution was unclear (personal interview #1, 22/08/05). A second interviewee stressed that illegal logging did not belong in the certification arena, it was a societal problem, and the two should not be confused (personal interview #2, 22/08/05). Interestingly, other business interests wondered whether certification nowadays really about combating deforestation or rather about politics, emotion, and branding. Business interests, it was claimed, were now questioning whether certification was still about sustainable forest management, or whether it had strayed from its original objective. Once the FSC had had lost the battle for largest amount of forest certified when CSA joined PEFC the certification debate had shifted to one about market share, rather than how to deal with the hundreds of millions of hectares forest that were not certified (personal interview #1, 18/07/05). Other processes were proving to be much more valuable in addressing the fundamental problems associated with deforestation. It had proved relatively useful in Europe, North America and Australasia and a few other areas, but it was never going to deal with the major problems confronting the world’s forests. These comments are worth reproducing in full:

I’ve tried to move on beyond certification. What has certification done? They’ve certified the forests of Europe, and the well-managed forests of North America. You’re not going to achieve much progress anywhere else. There are some exceptions, parts of Australia, part of New Zealand, part of South Africa. Certification was seen as an easy win - a silver bullet, or certainly promoted as such by the environmentalists in the early days - but people’s appreciation of the underlying causes of deforestation are far more profound now, and certification does not stop population pressure, does not stop loss of forest cover through urbanisation, endangered species, poverty, or unsustainable agriculture. People have moved on. I mean, I’m much more interested in combating illegal logging, and wood tracking and legality verification and getting more money into capacity building, making capacity building in forest rich countries that are losing their forest cover. That should be a big focus for World Bank investment, Asia Development Bank investment and the Dutch Government. They should not waste their time putting money into FSC, or PEFC verification processes for well-managed forests. That should be an end point, really. If you’re serious about sustainable forest management, certification is really the fourth step: get back to the first step, the second and third step. That’s why I’m on an FAO process that’s come out of the [UNFF] Collaborative Partnership on Forests. The FAO have set up a special facility to encourage and subsidise – or ‘incentivise’ – countries which have got incredible forest assets, but are losing them the quickest. We’ve got formulae that identify these countries [and] actually develop a national forest policy through a multi-stakeholder process, followed by investment, and training forest managers in combating illegality. That’s something PEFC or FSC will never do (personal interview, 15/09/06).

³⁶² Benjamin Cashore, Graeme Auld and Deanna Newsom, “Forest Certification (Eco-Labeling) Programs and Their Policy-making Authority: Explaining Divergence Among North American and European Case Studies”, *Forest Policy and Economics* 5 (2003) pp. 225-247, at p. 227.

-
- ³⁶³ Gulbrandsen, “Sustainable Forestry in Sweden”, p. 352 (referring largely to Sweden, but also commenting on Germany, the UK, US and Canada).
- ³⁶⁴ Humphreys, “The Certification Wars”, pp. 20-21.
- ³⁶⁵ Gulbrandsen “Sustainable Forestry in Sweden”, pp. 343-347.
- ³⁶⁶ Vallejo and Hauselmann, *PEFC: An Analysis*, pp. 7-8.
- ³⁶⁷ Ozinga, *Behind the Logo*, p. 18.
- ³⁶⁸ Personal interview, 12/09/06.
- ³⁶⁹ Personal interview, 11/07/05. In both France and Spain the differences from the UK and Swedish standards were “enormous” (personal interview #2, 05/07/05; personal interview, 11/07/05). In western France, all that was required by the standard was that forest managers had to try to ensure that they met the legislation (personal interview #2, 17/08/05).
- ³⁷⁰ Personal interview #1, 17/08/05.
- ³⁷¹ Personal interview #2, 05/07/05. For example, if the timber came from Sweden it would “almost” meet expectations. If it was from France or Spain, the label was “nonsense” (ibid).
- ³⁷² Personal interview #1, 17/08/05.
- ³⁷³ Personal interview, 15/09/06.
- ³⁷⁴ Personal interview #1, 05/07/05. Sweden was cited as a country in which assessment occurred at the forest management unit level.
- ³⁷⁵ Personal interview #2, 05/07/05.
- ³⁷⁶ Personal interview #1, 18/07/05.
- ³⁷⁷ Personal interview, 12/07/05. This informant did add that the system had proved itself to be responsive to external criticisms and pointed to the change of documentation that had arisen as a result of the WWF report *PEFC: An Analysis*. This in turn had encouraged PEFC to commission its own consultant’s study.
- ³⁷⁸ Zyen and PEFC, “PEFC Governance Review May, 2008 Final Report”, May 2008, at p. 5.
- ³⁷⁹ Ibid. The author of this study was invited to present to the panel, and provided a governance analysis, based on the findings of an initial draft of this chapter. A summary of the author’s analytical framework, contained in Chapter Three of this study was also published as an appendix in the review itself (Tim Cadman, “Evaluating Legitimacy and Quality of Forest Governance”, contained in Zyen and PEFC, “Governance Review”, appendix H, pp. 98-104).
- ³⁸⁰ Zyen and PEFC, “Governance Review”, p. 21, citing One World Trust, “The GAP Framework” <http://www.oneworldtrust.org/?display=gapframework> (accessed 30/09/08).
- ³⁸¹ Zyen and PEFC, “Governance Review”, p. 23.
- ³⁸² Zyen and PEFC, “Governance Review”, pp. 9-10.
- ³⁸³ Zyen and PEFC, “Governance Review”, p. 10.
- ³⁸⁴ Zyen and PEFC, “Governance Review”, p. 12.

-
- ³⁸⁵ Zyen and PEFC, “Governance Review”, p. 13, and p. 91.
- ³⁸⁶ Zyen and PEFC, “Governance Review”, p. 23.
- ³⁸⁷ Zyen and PEFC, “Governance Review”, p. 7.
- ³⁸⁸ Zyen and PEFC, “Governance Review”, p. 24.
- ³⁸⁹ Zyen and PEFC, “Governance Review”, p. 26.
- ³⁹⁰ Zyen and PEFC, “Governance Review”, p. 12.
- ³⁹¹ Zyen and PEFC, “Governance Review”, p. 8.
- ³⁹² Zyen and PEFC, “Governance Review”, p. 12.
- ³⁹³ Zyen and PEFC, “Governance Review”, p. 11.
- ³⁹⁴ Zyen and PEFC, “Governance Review”, appendix F p. 95 and G, p. 97, should be seen as replacing figures 5.1 and 5.2 contained in this study.
- ³⁹⁵ Elliott, Forest Certification, p. 28.
- ³⁹⁶ Gulbrandsen, “The Effectiveness of Non-state Governance Schemes”, p. 133, Ozinga, *Footprints in the Forest*, p. 59.
- ³⁹⁷ Personal interview, 11/07/05.
- ³⁹⁸ As one commentator has put it:
- One should also keep in mind that environmental organisations, not least the WWF, have invested heavily in promoting the FSC scheme, whereas forestry coalitions with no less intensity have worked to garner support for PEFC. Clearly, there is an element of self-interest in promoting either scheme, not only for forestry owners, but also in the environmental movement (Gulbrandsen, referring largely to Sweden, but also commenting on Germany, the UK, US and Canada, “Sustainable Forestry in Sweden”, p. 352).
- ³⁹⁹ Gulbrandsen, “The Effectiveness of Non-State Governance Schemes”, p. 142.
- ⁴⁰⁰ Chapter 2, PEFC Council Technical Document, October 29, 2004, p. 3.

United Nations Forum on Forests (UNFF)

Introduction

This chapter examines the United Nations Forum on Forests, the last, and most historically recent, of the four case studies selected for investigation. It has been chosen for the express purpose of rounding out the comparative analysis, which follows, by enabling the reader to compare the non-state, market-based systems examined previously with a more conventional, state-based approach to global governance. With no formal standards development process, and no related certification scheme, it differs considerably from the other case studies in this regard. As an intergovernmental body, most of its activities are concerned with UN member countries and their national forestry-related regulations and programmes. It concentrates less on the role of the market as an environmental problem solving mechanism, and places more emphasis on forest policy instead. Consequently its approach to participation and deliberation is viewed more in terms of the sovereignty of the nation state, than the other systems examined.

This orientation produces a different expression of contemporary global governance, but one that is equally suited to the analytical methods used in the preceding three studies. Commencing with a historical overview examining the development and growth of the role played by non-state interests in intergovernmental forest-related processes, it continues with a structural analysis of UNFF, its relationship to national-level programmes, and its institutional classification. The subsequent critical analysis reviews the governance arrangements underpinning UNFF. This too follows the methods adopted in previous chapters, but contains more detail from key informant interviews, since

these provide numerous insights into the quality of governance within the institution that are otherwise lacking in official documentation. These interviews occurred before some of the more recent developments within UNFF, and a postscript is included, bringing the historical overview up to date at time of publication. A concluding section reflects on the materials presented in the chapter.

Historical Overview¹

The evolution of global environmental governance and contemporary international forest deliberations are historically linked to the growth of non-state participation within the UN and its institutional structures. Influenced by the findings in *Our Common Future* published by the Business Council for Sustainable Development in 1987, the UN General Assembly agreed to convene UNCED, held in Rio de Janeiro in 1992. Two interesting developments in non-state participation occurred in UNCED. Firstly, major corporations (such as ICI) as well as private foundations supported the event. Secondly, public interests played a role in the negotiations in the lead-up to UNCED, including involvement in a number of preparatory committees. This is to be contrasted with UNCHE, where civil society participation was confined to the identification of items for discussion.² As a consequence of these developments, large numbers of non-state observers were present at the Rio conference to lobby government delegations.³ The extent of NGO participation in intergovernmental activities around the environment enhanced the degree of recognition accorded to public participation by state interests. Increased governmental recognition of non-state interests also reflected the broader normative influences of where NGOs and other agencies played a significant role in decision making in other intergovernmental processes,

such as those relating to aid. However, within the environmental policy domain, it also been argued that while it may appear that NGO concerns are reflected in the language of the negotiated texts arising from intergovernmental environmental processes, this should not necessarily be taken to demonstrate actual NGO influence.⁴ The role of NGOs in UNFF is a case in point, as discussed below.

International Forest Deliberations and the Creation of UNFF

The idea of establishing a set of international forest talks has been attributed to Swedish Prime Minister Ola Ulstein, who put forward the proposal as a response to the failure of existing international programmes to protect forests.⁵ Between January and December of 1990 at least nine separate proposals to create a global forest initiative were discussed in various forums. The Food and Agriculture Organisation's "Possible Main Elements of an Instrument (Convention, Agreement, Protocol, Charter) for the Conservation and Development of the World's Forests" emerged as the major contender and was only eclipsed by the UNCED process itself.⁶

The intergovernmental negotiations at Rio failed to bring the same degree of cooperation to forests as they had with climate change, biological diversity and desertification. These issue areas resulted in a series of formal Conventions, but the much-anticipated Legally Binding Instrument (LBI) on forests did not eventuate.⁷ Nevertheless *Agenda 21* contained a *Statement of Forest Principles*, which employed much of the language first used in the documentation associated with the FAO initiative.⁸ As with other Rio materials and going beyond FAO, it included relatively strong language relating to non-state participation in forest-related policy making.⁹

Nevertheless, a number of institutions within the UN system with relevance to forest-related policy did arise in the wake of Rio. One, the Commission for Sustainable Development (CSD), responsible for implementing *Agenda 21*, was initially given the mandate to deal with forests on account of Chapter 11 of that document (“Combating Deforestation”). CSD, as a subsidiary organ of the UN’s second highest body, the Economic and Social Council (ECOSOC) continues to occupy a relatively significant position within the UN system. Substantive decisions made within CSD are sent upwards to ECOSOC for final approval, usually in the form of draft resolutions.¹⁰

Subsequent to the creation of CSD, a decision was made to establish a specific body to tackle the forest issue and the Intergovernmental Panel on Forests (IPF), which functioned from 1995-97, was created to “provide a forum for forest policy decisions.”¹¹ In 1997 the ECOSOC then established the Intergovernmental Forum on Forests, which ran until 2000. Both the IPF and then the IFF were formed on an ad hoc basis as subsidiary bodies of CSD, with reports and decisions being submitted to CSD and subsequently, to ECOSOC.¹²

In terms of substantive outcomes, the IPF/IFF deliberations generated 270 Proposals for Action (PfA).¹³ The PfA repeated the inclusive language of *Agenda 21*, referring to “participation that seeks to involve all interested parties, including local communities.”¹⁴ NGOs were also successful in gaining recognition of the need to incorporate multi-stakeholder dialogues in subsequent forest discussions, a means of non-state inclusion that had first been used at the UN Conference on Human Settlements in 1996.¹⁵ The IFF concluded its deliberations in February 2000, and submitted a final report suggesting that forests were in need of a more independent organ, not linked to the CSD.

Negotiations were held to develop a draft resolution, which was submitted to ECOSOC. This was approved and discussions on the nature of the international arrangement on forests began.¹⁶

In September 2000 eight nation-states met with the purpose of working with existing forest-related structures and institutions to develop the concept as well as the basic elements of a new programme of work. The group came to be known as the Eight-Country Initiative and included Australia, Brazil, Canada, France, Iran, Malaysia, Nigeria and Germany. This group provided the background material for an international expert consultation, which produced a non-consensus document canvassing a range of views and ideas on the institution's context and work areas. The initiative was open to all relevant parties (state and non-state) and was conducted in a transparent manner, and a synthesis report was produced.¹⁷

NGOs were particularly active in the Initiative, and in the light of previous experience, determined to steer the proposed forum in the way they wanted.¹⁸ By the mid-1990s NGOs' views on the value of a forest convention had shifted from an initial position of support immediately post-Rio to outright opposition, based on concerns that a convention would divert attention away from existing initiatives and halt action on the ground while governments negotiated the convention. They were also sceptical regarding the strength of such an instrument given the historical disagreements between governments and the related refusal to pledge financial resources.¹⁹ They had also become embittered over the extent to which governments had chosen to overlook their input into both IPF and IFF, particularly the textual content they had developed during inter-sessional meetings of IFF, where they had had a relatively equal degree of input. A major source of contention was the treatment given to NGO materials in IFF's final published

documents. In the case of the PfA, recognition of self-determination and autonomy for indigenous peoples and affording them rights in mainstream international law and forest policy were not incorporated. Wording relating to the empowerment of local communities, the impacts of colonisation, and the privatisation of forests, were also watered down or omitted in IFF's final report. These actions led NGOs to conclude that it would be better to ensure that the new body did not adopt any further proposals, and should instead concentrate on implementing what had already been agreed to. Secondly, they wanted to concentrate on implementation at the national level, and confine UN-level discussions to reporting and peer review, rather than multilateral negotiation. The issues of implementation and reporting were to become two sources of NGO-government conflict at subsequent sessions of the new body.²⁰ NGO participation per se was to prove to be another.

History of UNFF Sessions

The United Nations Forum on Forests (UNFF) was created as a subsidiary organ of ECOSOC itself, at the same level as CSD.²¹ Previously, it had been CSD that approved the reports of IPF and IFF but was in turn subordinate to the ECOSOC, which acted as the final decision making body. All this changed with the creation of UNFF, which reported directly to ECOSOC. Although CSD still retained the mandate to follow the implementation of *Agenda 21*, it will not now discuss forest issues until its work cycle for the years 2012-2013.²²

A preliminary organisational session of UNFF was held 12-16 February 2001, which adopted two decisions on the location of the UNFF and its future methods of work. The first session (UNFF-1) was held in the United Nations New York headquarters 11-22 June in the same year, and was mainly administrative,

producing draft decisions on the date and venue for UNFF-2, the report of its first session and the provisional agenda for UNFF-2. It adopted three resolutions concerning the continuation of the PfA, carried over from IPF/IFF, the development of a Collaborative Partnership on Forests (CPF), and a multi-year programme of work (MYPOW).²³

The third resolution covered the accreditation of intergovernmental organisations and also included reference to other non-state organisations, which were referred to as ‘major groups’. The resolution stressed the importance, involvement and input of major groups in the work of the Forum, and particularly the role of multi-stakeholder dialogue at all levels in the implementation of SFM.²⁴ Provisions, following the established rules and procedures, were made for major group accreditation and participation at UNFF sessions via the format of a formal multi-stakeholder dialogue (MSD), the first of which would be held at UNFF-2.²⁵ Non-state interests were reminded that for them “meaningful inputs” constituted “balanced stakeholder participation of developed and developing countries”, and they were invited to present their experiences in the form of case studies.²⁶

UNFF-2 was held 22 June 2001 and 4-15 March 2002 in New York and resulted in three resolutions. The first was a ministerial declaration to the World Summit on Sustainable Development, to be held later the same year.²⁷ The second related to the implementation of the IPF/IFF PfA, which were the basis of UNFF’s plan of action over ensuing sessions.²⁸ The third resolution laid down specific criteria for a subsequent review of the effectiveness of the whole of UNFF’s areas of activity, collectively referred to as the International Arrangement on Forests (IAF).²⁹ The review was to be presented at UNFF-5, and the UNFF

secretariat and CPF were invited to present a process to facilitate the carrying out of the review at UNFF-4.³⁰

The first MSD was held on 6 March 2002. Two papers were presented, one from the International Union of Forest Research Organisations (IUFRO), a CPF participant and major groups' member on various scientific and technical forest-related matters. The second represented the perspectives of private forest owners, who called for secure land tenure rights and a bottom-up approach to implementation. There was general consensus between the countries present and the major group representatives that those affected by and implementing forest policies needed to be involved in both planning and decision making. NGOs in particular emphasised that the Forum "need not develop more proposals for action, but should instead take concrete actions."³¹ There were general complaints over the length of time taken to accredit major group representatives and the need for more preparatory time to make the dialogues effective.³² The Chairman of the Forum presented his summary of the MSD to the high-level ministerial segment on 13 March.³³

UNFF-3 was held in Geneva 26 May - 6 June 2003. Agreement was reached regarding the composition, terms of reference, scheduling and reporting of three ad hoc expert groups agreed to as part of the inter-sessional work associated with the MYPOW. Three resolutions were made regarding the implementation of the PfA relating to: economic aspects of forests; forest health and productivity; and maintaining forest cover to meet present and future needs.³⁴ All participants at the session were "urged...to continue their efforts to implement them."³⁵ Two further resolutions were passed regarding enhanced cooperation and policy coordination and strengthening the role of the Secretariat.³⁶ One other decision of note was a

request for guidance from the secretariat on the format of the voluntary country reports. This had arisen from an identified need for harmony and streamlining to lessen the reporting burden placed upon countries.³⁷ Two panel discussions were held on the economic aspects of forests and on regional processes and initiatives.³⁸

The second MSD was held during UNFF-3 on 27 May. Eight major groups participated, two new groups for the first time (women and youth).³⁹ There were three dialogues on forest health and productivity (scientific community and women), the economic aspects of forests (indigenous people and forest owners), and maintaining forest cover (youth and environmental NGOs). An open dialogue between the Member States, intergovernmental agencies and the major groups followed these more formal presentations. Subsequently three case studies were presented on forest health, maintaining forest cover, and economic aspects of forests by the scientific community, the Women's Caucus, and the Forest Owner Association of Kempten respectively.⁴⁰ The Chairman's Summary contains the comments made by the major groups, governments and agencies regarding the thematic issues of UNFF-3 and occupies a significant amount (approximately 15%) of the Forum's final report. Discussions regarding the structures and processes associated with forest policy making at all levels -- most notably concerning participation -- dominate the Summary. Only three of the 19 paragraphs do not include matters of governance, and the word participation occurs twelve times in nine paragraphs.⁴¹ The Chairman himself noted that the discussions "had evolved from purely questions about involvement to questions of substance."⁴² Beyond the broad principle of participation, non-state participants within UNFF were concerned about a wide range of substantive issues relating to

the effectiveness of UNFF as a governance system. These included structural matters regarding interest representation (inclusiveness and resources) and institutional arrangements for openness and transparency, as well as general procedural issues concerning decision making and implementation. On 13 June the Forum agreed to include a summary of the MSD in the main body of its report of the third session.⁴³

UNFF-4 was held 3-14 May 2004 in Geneva.⁴⁴ Further policy resolutions were adopted regarding the implementation of the IPF/IFF PfA covering: a) forest-related scientific knowledge; b) social and cultural aspects of forests c) monitoring, assessment and reporting via C&I for SFM.⁴⁵ A fourth resolution was adopted on the IAF effectiveness review process for UNFF-5, recommending that preparations should be open, transparent and comprehensive in scope to allow for informed decisions at UNFF-5. Respondents to the annexed questionnaire, it was suggested, might wish to present materials based on their experiences: such selections would be used for a comparative analysis in the final report.⁴⁶ The responses from countries, organisations and major groups were to be entirely voluntary in nature and it was agreed that a document would be synthesised from individual reports on the extent of implementation of the IPF/IFF PfA in advance of the fifth session.⁴⁷ This would “provide a global overview of progress towards sustainable forest management...as a contribution to discussions” at that session.⁴⁸

One item identified in the MYPOW for consideration at the fourth session, which resulted in no agreement, was the item on traditional forest-related knowledge (TFRK).⁴⁹ This item has been portrayed as foundering on North/South, as well as internal North/North conflict. The less developed,

southern, G77 countries wanted to retain national sovereignty over all commercial decisions relating to TFRK (both access to knowledge and to the benefits derived from such knowledge). They favoured the Convention on Biological Diversity (CBD) as the principle negotiating forum rather than UNFF as it was developing an agreement on who was to have access to and benefit from the sharing of TFRK already. The developed countries were split between the US and the EU (periodically joined by New Zealand and Canada). The US as a non-signatory to the CBD opposed the idea of an international regime on access and benefit sharing, and wanted to link funding to indigenous and community-led initiatives. The EU, hoping to gain commercially from TFRK, wanted to link the financial assistance developed countries might provide to further international obligations outside the CBD, such as the WTO rules on intellectual property rights. The conflicts could not be resolved, and the negotiations ended without any agreement.⁵⁰

Two of the ad hoc expert groups, transfer of environmentally sound technologies and finance, and mechanisms for monitoring, assessment and reporting, were scheduled to present their reports at UNFF-4. Negotiations inside the former resulted in disputes over funding via official development assistance (ODA), favoured by the South, versus private sector financing preferred by, and economically advantageous to, the North. The draft text of a resolution was consequently abandoned and discussions subsequently took place behind closed doors.⁵¹ A relatively weak decision (rather than a resolution) was passed encouraging members to take “concrete action” and deciding to give the matter “further consideration” through the MYPOW.⁵²

The second group was more successful, with deliberations resulting in a resolution, although its contribution to concrete action could be considered limited, since it recommended that “monitoring, reporting and assessment, including the adoption or implementation of criteria and indicators, [should be] on a voluntary basis in accordance with national priorities and conditions.”⁵³ In addition, the decision to exclude material relating to the upcoming IAF review prepared by NGOs and to include only information provided by the CPF and national governments left environmental NGOs in particular feeling that their views were not respected in UNFF.⁵⁴ This led the writers of the *Earth Negotiations Bulletin* to conclude that the lack of input from civil society would exacerbate their feelings of alienation “and could eventually deprive the post-UNFF arrangement of an important source of legitimacy.”⁵⁵

The third MSD was held on 6 May 2004, and the Chairman’s summarised précis, focussing largely on forest policy, was made available to the Forum on 14 May. The dialogue was in two parts, with the first component consisting of general policy discussion arising from the Forum themes of TFRK and the social and cultural aspects of forests. The second component was more focussed on the implementation-related topics of capacity building and partnerships.⁵⁶ The dialogue regarding TFRK reflected the events occurring within the Forum’s own negotiations and repeated some of the unresolved NGO frustrations of IFF/IPF.⁵⁷

The state and extent of non-state participation was once again a major element in the MSD, but with a greater emphasis on the mechanisms and institutions of forest governance to ensure effective participation. The social and cultural dialogue stressed the need for integration and decentralisation of the various interests involved in decision making.⁵⁸ It also stressed the implementation of

forest policy as a joint responsibility and called for “extensive capacity-building to enable...effective participation.”⁵⁹ The capacity-building and partnership discussions expanded on these themes. According to the summary, “capacity building provides an important role in strengthening the ability of stakeholders to effectively participate” and if done properly “ensures that each of the stakeholders can fulfil their role in ensuring sustainable forest management.”⁶⁰ In an interesting, but probably unintentional allusion to ‘new’ governance arrangements, the section acknowledges the contribution of “associations and networks” to SFM.⁶¹ Further collaboration between the public sector and the major groups regarding networks and communication systems was highlighted by all present as important. Good dialogue, it was concluded, enhanced decision making processes, and governments were called upon to work jointly at all levels with stakeholders on matters of planning and implementation.⁶²

By the end of UNFF-4, the series of failed negotiations between governments resulted in a sense of frustration amongst non-state participants. The last statement delivered at the plenary by indigenous peoples organisations (IPOs) and NGOs highlighted their concerns regarding both the outcomes and processes of the session.⁶³ The MSD itself was criticised by these groups as being “just an exercise in window dressing... the outcomes and concerns expressed during these discussions never found their way into the important decision making and text negotiations carried out by the governments.”⁶⁴ This was reinforced by a delegate from the Global Caucus on Community-Based Forest Management: “What good is a multi-stakeholder dialogue unless the input of indigenous peoples, community representatives, and other members of civil society is incorporated within the actual resolutions of UNFF?”⁶⁵ The *Earth Negotiations Bulletin* were equally

frank: “One point of clear consensus in Geneva was that UNFF has failed to deliver on its stated aims, and that continuing the arrangement in its current form is neither politically viable nor desirable.”⁶⁶

UNFF-5 was held in New York 14 May 2004 and 16-27 May 2005. Only one draft resolution was agreed, regarding the report of the fifth session and a provisional agenda for UNFF-6, referring the matters to ECOSOC. Two decisions were made, one regarding the accreditation of intergovernmental organisations, the other concerning the review process. With respect to the latter it was decided to complete the consideration of the review of the IAF at UNFF-6, which was to be guided by the Chairman’s bracketed draft text developed in the course of informal consultations during UNFF-5.⁶⁷ UNFF-6 was also given the task of creating an agenda for UNFF-7, and the Forum’s life by implication was further extended.⁶⁸ Two round table discussions were held during the course of the high level, ministerial, segment of the session, on restoring the world’s forests and forest law and governance. The second addressed the problem of illegal logging identified during IPF discussions, and noted that initiatives external to UNFF including certification and public procurement policies were valuable tools for providing market access for legal and sustainably managed forest products.⁶⁹

The fourth MSD was held on the 25 May. Representatives of the major groups simply read a series of prepared statements and there was no discussion.⁷⁰ Business and industry interests were equivocal regarding the IAF, neither supporting nor opposing any specific type of international arrangement, but asking for greater private sector and non-governmental participation. They recommended a set of basic principles and minimum requirements for greater coordination of forest policies and paying more recognition to the trade in

sustainably managed forest products.⁷¹ NGOs asserted that 10 years' debate regarding whether there should be a global forest convention had prevented progress on a range of issues and that UNFF needed reform.⁷² Criticising major groups' participation in the MSDs "as a way to segregate the input provided by those stakeholders" they argued that without "radical changes to ensure the effective consideration of proposals" there was no point in continuing with them.⁷³

Much of the Forum was occupied by discussions concerning the report prepared by the third (and extremely long-titled) "Ad hoc Expert Group on Consideration with a View to Recommending the Parameters of a Mandate for Developing a Legal Framework on All Types of Forests."⁷⁴ The title of the group, first agreed to at the IFF's last meeting, it has been claimed, was deliberately equivocal, and reflected the ongoing debate over the type of forest instrument UNFF should adopt.⁷⁵ The report presented two basic options, built around either a non-legally binding instrument (NLBI), or a legally binding instrument (LBI), both of which deeply affected the future shape and direction of the IAF. The report was hotly debated. Several countries argued that the IAF had neither matched up to expectations nor curbed deforestation and argued either for or against an LBI as a means of strengthening the instrument.⁷⁶ Donor countries were once again split between the US (in favour of the NLBI route) and the EU (pro-LBI). The developing nations of the G77 were internally divided, but generally in favour on the NLBI.⁷⁷

The debate as to whether the IAF should be legally binding or not dated back to earlier disagreements.⁷⁸ Neither UNCED nor IPF/IFF had ever fully resolved the debate regarding a forest convention, and discussions at the Forum

deteriorated into repeating old arguments (as with discussions surrounding TFRK) regarding money and sovereignty, which were replayed in the session's various working groups.⁷⁹ A second element of the conflict at UNFF-5 related to the goals and timetable for implementing the IAF.⁸⁰ Determined to get a substantive outcome, the EU had initially pushed hard for quantifiable global targets, but dropped this in the hope of getting time-bound commitments from Brazil and the US instead.⁸¹ Meanwhile the G77, whatever their internal positions on the LBI, continued to press the claim for funding to implement the IAF.⁸² Text generated in discussions was so weak that countries agreed it should not be adopted as a ministerial declaration. Finally, four main points were agreed to in a draft resolution for ECOSOC as a basis for subsequent discussion at UNFF-6 on a non-legally binding instrument.⁸³

Another major source of conflict, this time between countries and non-state interests, concerned the presence of the major groups in the high level ministerial discussions during the session. The Secretariat's attempt to integrate the MSD into the high-level ministerial segment was opposed by Cuba. The matter almost went to a vote, but it was finally agreed that major groups would in future give their statements only after governmental delegations had presented, and not earlier in the sessions, as previously. This new format would provide the basis for major group participation at UNFF-6.⁸⁴ Some states argued that this was necessary since stakeholder comments did not allow for sufficient time for country negotiations.⁸⁵ The impact on major groups was that they were essentially relegated to the role of passive observers. This was condemned by NGOs as a "retrograde position of governments in the UNFF [violating] the spirit of *Agenda 21* under which it was agreed that Major Groups must be involved in all relevant UN processes."⁸⁶ The

Forum ended with the chair, and a range of countries, expressing disappointment that UNFF had not risen to the challenge of the forest crisis, and was now in danger of becoming increasingly peripheral to the international dialogue.⁸⁷

UNFF-6 was held in New York 27 May 2005 and 13-24 February 2006. There were no resolutions and only one decision passed (relating to the accreditation of intergovernmental organisations).⁸⁸ However, a draft resolution for adoption by ECOSOC was agreed to, representing some progress in deliberations between the Member States. Firstly, and as a consequence of the review of the effectiveness of the IAF, it was agreed that the IAF would contain three new principal functions in addition to those referred to in ECOSOC resolution 2000/35.⁸⁹ Secondly, four new global objectives on forests were identified as means of implementing the IAF, summarised as follows: 1) reverse the loss of forest cover and increase efforts to prevent forest degradation; 2) enhance forest benefits and their contribution to international development goals; 3) increase the area of protected forests and areas of sustainably managed forests; and 4) reversing the decline in official development assistance for SFM.⁹⁰ It was also agreed that following its seventh session UNFF would meet biennially on the basis of a more focussed MYPOW to be adopted by the Forum at its seventh session.⁹¹ Regional meetings would occur in between, concentrating on implementation.⁹² After a decade and a half of stalled negotiations on a legally binding instrument, all parties agreed to the conclusion and adoption of non-legally binding instrument at its seventh session. To this end it was agreed that an ad hoc working group, open to all Forum parties, would be convened prior to UNFF-7 to consider content for negotiation at the upcoming session.⁹³ On that basis, the effectiveness of the IAF was to now be reviewed in 2015, and a full range of options, including a legally

binding instrument, was to be considered then.⁹⁴ Six proposals for an instrument were appended to the report, the four most significant being from Brazil (a voluntary international instrument), Canada (an international convention) the EU (a subscription-based approach with an option for a future LBI), and the US (a voluntary SFM standard, or *Codex Sylvanus*).⁹⁵

Owing to the interventions of Cuba and other countries at UNFF-5, the status of the fifth MSD, as anticipated, was much reduced, producing the lowest level of non-state engagement since talks regarding the IAF began. Children and youth, on behalf of the major groups, expressed dismay in its opening statement that participation had been reduced, and called for indicators that incorporated their different interests in SFM.⁹⁶ The lack of engagement by major groups led the writers of the *Earth Negotiations Bulletin* to conclude that NGOs were better off working through other agreements such as the CSD and alternative avenues such as the FSC.⁹⁷ This plea for inclusion contradicted the rhetoric of the draft resolution to ECOSOC, which like many of its predecessors, contained several references to strengthening, promoting and encouraging stakeholder participation in SFM, policies and programmes.⁹⁸ At the same time, the seventh session, it was decided, would strengthen interaction with major groups and forest stakeholders during the course of the Forum.⁹⁹

Interestingly -- and ironically, given the new arrangements for UNFF sessions -- major group interests participated actively in the subsequent meeting of the expert group on the non-legally binding instrument, held in New York, 11-15 December 2006. Several of their interventions were included along with the rest of the bracketed text produced by country participants.¹⁰⁰ This may reflect the changed circumstances arising from the decision to postpone discussions

regarding a forest convention, and with previous divisions between hard and soft law becoming increasingly blurred, the NLBI discussions occurred somewhere in that continuum. A consensus vision document and the support NGOs received from various countries for their ongoing involvement may have strengthened their resolve to stay involved at some level.¹⁰¹ It has also been argued that the increasing proliferation of various soft law approaches to forest management regulation exemplified by the forest law, enforcement and governance (FLEG) processes (see below), further moved the debate beyond a forest convention, which was not supported by NGOs.¹⁰²

Governance Within UNFF

System Participants

UNFF re-committed itself to the inclusive language of IPF/IFF, but reformulated its structure, determining that owing to its status as a subsidiary of ECOSOC it should “be open to all States and operate in a transparent and participatory manner [and include] relevant international and regional organisations.”¹⁰³ There are three broad constituencies in UNFF: Member States, intergovernmental agencies working on forests, and the so-called Major Groups referred to in *Agenda 21*.¹⁰⁴ Member state representation in the Forum itself differs from the previous IPF/IFF arrangements under CSD. Although both CSD and UNFF are subsidiary organs of ECOSOC, UNFF has a higher status in the sense that it consists of a universal membership (all UN Member States are members of UNFF) whilst CSD has limited membership.¹⁰⁵ Governmental participation reflects this profile, with negotiations usually conducted by diplomats and high-level national

delegations.¹⁰⁶ There are also ministerial segments conducted at important sessions.¹⁰⁷

Resolution 1/1 of UNFF-1 reiterated the importance of stakeholder participation and instituted the concept of a multi-stakeholder dialogue (MSD) at each session to engage representatives of five key (non-state) Major Group stakeholders. These stakeholders are identified as: forest-related NGOs (e.g. Greenpeace International); indigenous people (eg the Forest Peoples Programme); scientific and technological communities working in forest-related fields (e.g. IUFRO); business and industry related to forests (e.g. the World Business Council for Sustainable Development); and forest owners (e.g. the Confederation of European Forest Owners).¹⁰⁸ To this should be added women, children and youth, local authorities and farmers, which are identified in *Agenda 21*, and recognised in subsequent UNFF literature, making a total of nine identified Major Groups.¹⁰⁹

Institutional Arrangements

International Level

In 2000 the various action-related outcomes of the IPF and IFF were codified under a new international arrangement on forests (IAF), the primary objective of which was to “promote the management, conservation and sustainable development of all types of forests and to strengthen long-term political commitment to this end.”¹¹⁰ The principal functions of this new arrangement were to: a) facilitate the implementation of the IPF/IFF PfA; b) provide a forum for policy development; c) enhance cooperation and coordination amongst relevant agencies and d) enhance cooperation and coordination internationally, through cross-sectoral North/South public-private partnerships at the national, regional and global levels; e) monitor and assess national, regional and global progress on

implementation; and finally f) strengthen political commitment (e.g. through ministerial engagement). These objectives were to be facilitated through an intergovernmental body -- UNFF (see Figure 7.1 below). The Forum was given, *inter alia*, two tasks: i) within five years, to “consider...the parameters of a mandate for developing a legal framework on all types of forests” and ii) “to devise approaches towards appropriate financial and technology transfer support to enable the implementation of sustainable forest management.”¹¹¹ These objectives and tasks were to be programmatically implemented by means of the development of a multi-year programme of work (MYPOW).¹¹²

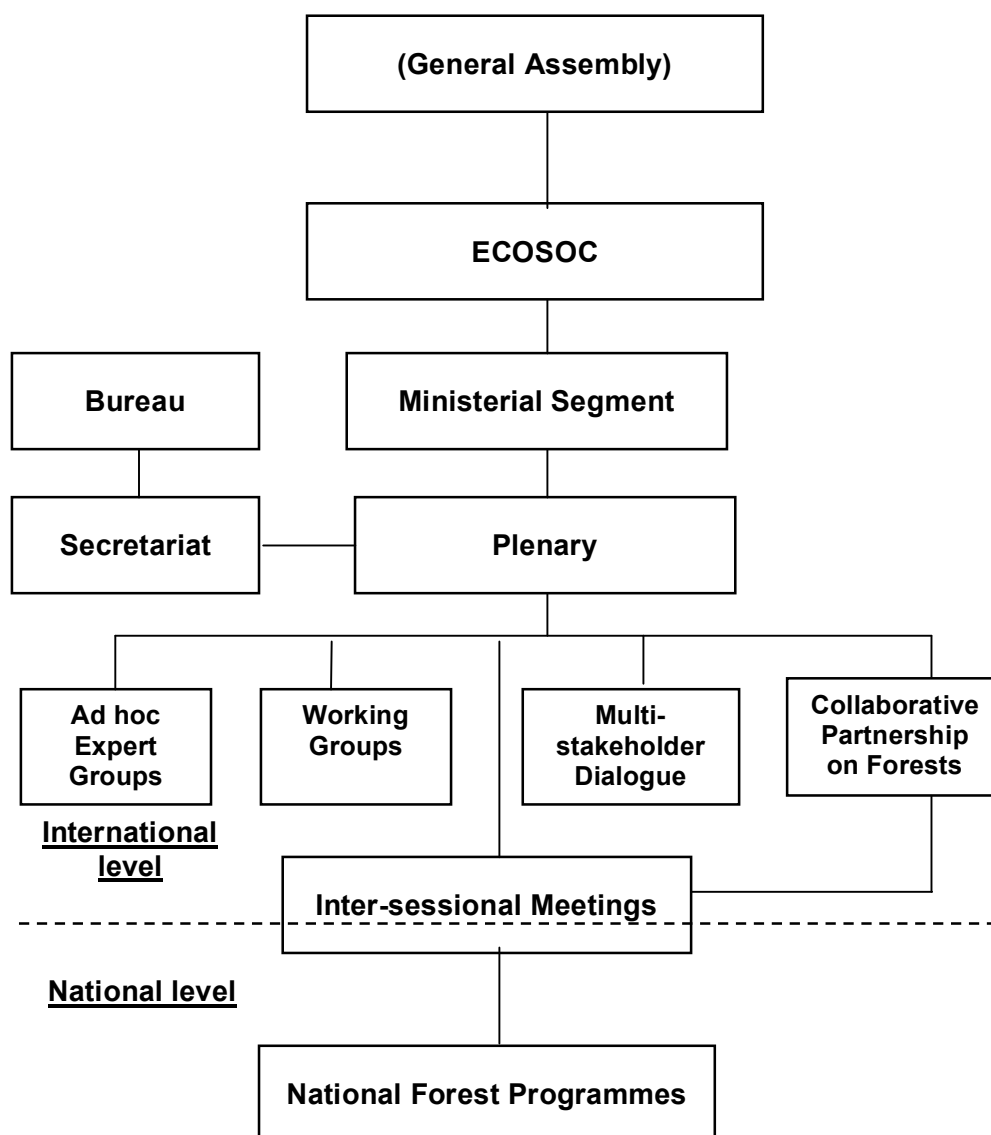
In order to enhance coordination and collaboration between agencies working on forest-related activities, the Collaborative Partnership on Forests (CPF) was created in 2001. It is constituted from the various forest-related international organisations, secretariats of related conventions and institutions working on forests to support the work of UNFF.¹¹³ UNFF can only guide, not direct the CPF, which has no formal status, operational or project management role, no independent budget and whose members are answerable to their own governing bodies rather than the UNFF.¹¹⁴ The CPF has been singled out by commentators for its inability to develop an “effective advisory relationship” with non-state interests associated with UNFF.¹¹⁵

UNFF sessions also include panel discussions, led by experts who present information on specific topic areas and field questions from the audience. The panels are more of an academic seminar and do not appear to contribute directly to international diplomacy and policy-making.¹¹⁶ Between UNFF sessions there have also been *ad hoc* expert group meetings where experts “deliberate and provide advice on scientific and technical issues related to forests, as well as

advancing the objectives of UNFF.”¹¹⁷ Three groups were established at UNFF-1. The first and second groups dealt with monitoring, assessment and reporting, and finance and transfer of environmentally sound technologies respectively (both groups reported to UNFF-4). The third group was given responsibility for the generation of possible options for the international arrangement on forests on completion of the Forum’s first five sessions.¹¹⁸ The CPF is permitted to contribute scientific and technical expertise to such bodies, but while Major Groups can attend, UN rules do not permit active or substantive participation. Country- and CPF-led inter-sessional initiatives have also been encouraged by UNFF. These are for the purpose of “catalysing enhanced cooperation and coordination where complex and politically sensitive issues are discussed and analysed and tabled at UNFF sessions for further deliberations and decisions.”¹¹⁹

A Bureau from within the Forum was also created at UNFF’s inception and consists of one chairperson and four vice-chairpersons, one of whom acts as rapporteur, with reports being submitted to ECOSOC and through it to the UN General Assembly.¹²⁰ A “compact secretariat” was established through the UN Secretary-General, consisting of “highly qualified staff” strengthened through staff from the various other secretariats and agencies. The role of the Secretariat is to service the Forum and support the CPF and coordinate its activities with the secretariat of the CBD.¹²¹ The Secretariat contains no representatives from environmental NGOs or indigenous peoples organisations.¹²² The UNFF meets annually for two weeks in either New York (UNFF-1, 2, 5 and 6) or Geneva (UNFF-3 and 4).

Figure 7.1 Structure of UNFF



National Level

Many scholars see the role of forest governance on the international level as supporting the trend for decentralisation and devolution by providing appropriate structures through which financial incentives for practising SFM can be channelled. They tend to place more importance on civil society participation in forest governance at the national level through national forest programmes (NFPs).¹²³ ECOSOC Resolution 2000/35 requires UNFF to implement the

IPF/IFF PfA through NFPs.¹²⁴ NFPs were first mooted as a means of improving forest management during discussions between donor countries and international organisations on the development of the Tropical Forestry Action Plan (TFAP). They foundered there, however, when support was withdrawn by international organisations following evaluations revealing that NFPs were failing to deliver expected on-the-ground impacts. Nevertheless, the idea re-emerged during UNCED negotiations, and proved to be a point upon which all negotiating parties were able to agree, and was extended to cover all forest types. NFPs were to survive throughout the IPF/IFF and subsequent UNFF negotiations.¹²⁵ NFPs have been described as “policy planning instruments, striving to render politics more rational, more long-term oriented, and better coordinated by a series of *basic principles and elements* that replace the principles of traditional technocratic planning.”¹²⁶ Participation, policy learning, coordination and decentralisation are identified as guiding principles for the formulation and implementation of NFPs.¹²⁷ The development of NFPs are assisted at the international level by two agencies outside the UNFF: FAO’s NFP Facility in operation since 2002 and an offshoot of the TFAP; and the World Bank’s PROFOR programme, initially created by the UNDP in 1997 and moved to the World Bank in 2002.¹²⁸

Standards Development

UNFF does not develop standards. Its most substantive output, carried over from the IPF/IFF processes are the PfA. UNFF’s contribution was to arrange the 270 PfA arising from IPF/IFF into 16 thematic elements, which constituted specific agenda items at UNFF’s second, third and fourth sessions.¹²⁹ The intention was for the PfA to be implemented by means of finance, transfer of environmentally sound technologies and capacity building. Some of the proposals, notably

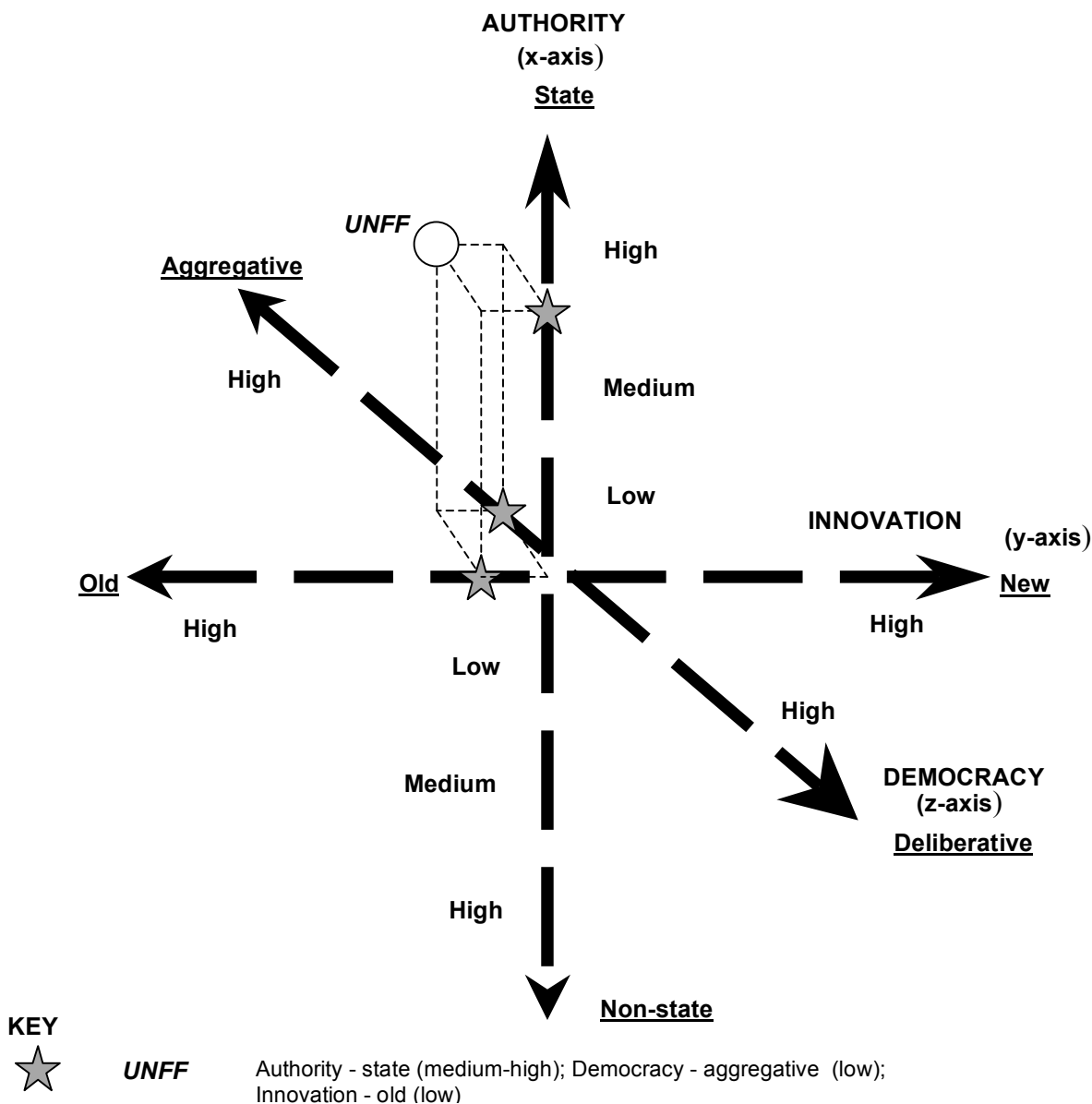
thematic element (b) promoting public participation, were identified as common items for each session.¹³⁰

Institutional Typology

Member countries within the UNFF are by far the most influential actors, reflecting their status in UN system as a whole. States negotiate text, pass resolutions and make decisions, and their power is absolute. UNFF can, however, be influenced by non-state interests through the Major Groups that participate in the MSD, by intergovernmental organisations via the CPF, and through the role played by special agencies (as well as state entities) in implementing SFM on the ground via NFPs and other mechanisms. Non-state interests also attend meetings as part of state delegations.¹³¹ These qualifications provide a moderating influence, and although UNFF clearly belongs on the state-centric end of the authority continuum, it is rated as being between **high** and **medium**.

UNFF conforms largely to the aggregative model of democracy on account of its majority voting system, but conformity is not complete, since by tradition voting powers remain unexercised in favour of full consensus agreement (see below). Nevertheless, nation states themselves are aggregated around various veto coalitions and voting blocs that represent specific -- competing -- interest groupings akin to political parties (e.g. those supporting either an LBI or an NLBI). Although UNFF therefore sits on the aggregative end of the democracy continuum, formal voting is not practiced, and much of the interaction between enfranchised participants is discursive in nature, earning it a rating of **low**.

Figure 7.2 Institutional classification of UNFF



Although largely steered by the state and top down in nature, UNFF nevertheless permits a degree of interaction with non-state and national-level interests. In terms of its structure (particularly with regards to the subordination of the Ad Hoc Working Groups to Plenary, and Plenary in turn to the Ministerial Segment, and thence to ECOSOC and the UN General Assembly), it is best described as a form of hierarchical governance, albeit with some ‘open’ or ‘mixed mode’ tendencies, given the social-political nature of its mandate.¹³²

From its foundation UNFF decided to foster international cooperation through public private partnerships (PPPs).¹³³ It is consequently associated with, but not directly responsible for, a range of ‘new’ governance arrangements at national and regional, as well as international, levels. These are noted as being instrumental in promoting SFM and for addressing issues regarding illegal logging and good governance.¹³⁴ It is best placed somewhere in the middle of the governance continuum, but given its top-down structure, it is more directly associated with ‘old’ governance arrangements than ‘new’, but with a rating of **low**. See Figure 7.2 above.

Critical Analysis

Interest Representation

Inclusiveness

UNFF is the only subsidiary body of ECOSOC with universal country membership, which has given it a greatly enhanced profile within the UN system.¹³⁵ Non-state participation is more restricted. Resolution 1/1 outlines the rules of procedure under which Major Groups can participate in UNFF sessions. These were based on the rules governing functional commissions of ECOSOC, and the supplementary arrangements established by ECOSOC for the CBD. The Forum was expected to extend the “participatory practices” established by the CBD, IPF and IFF.¹³⁶ Under these procedures participating non-state interests are permitted to attend as observers, and may -- at their own expense and in the various official languages of the UN -- make written, unofficial, submissions. They may also, at the discretion of the chair, make oral interventions, with the consent of members, and may also be consulted or heard by any relevant committees, if properly accredited. Representation is to be equitable between

developing and developing country interests, and balanced regarding an environmental, or developmental focus.¹³⁷

The output of the involvement of the Major Groups in the multi-stakeholder dialogue is a chairman's summary, included in the final report of each Forum. Any proposals arising from the segment are presented to the Forum and "taken into careful consideration" in any negotiated decision; this is considered an "efficient and effective way to involve Major Groups."¹³⁸ UNFF considers the Major Groups to be "actively involved in UNFF and its programmes."¹³⁹ This role was undermined by the changes to the MSD instituted as a result of Cuba's intervention at UNFF-5, however. It has been argued that Cuba initially attempted to prevent the inclusion of the MSD at UNFF-6 all together. The final decision to allow Major Groups to speak only after government delegations represented a compromise, but which nevertheless turned the discussions of the MSD at UNFF-6 it has been alleged, into "informal side events...rather than as part of the formal proceedings. Not surprisingly, the result of this decision was significantly lower major group involvement."¹⁴⁰

The MSD and problems associated with its structural composition have been analysed in some detail by commentators. It is criticised for failing to live up to its promise and since it is poorly connected to other structures, its input into the broader policy dialogue of UNFF is restricted, creating a "participatory ghetto" for Major Groups.¹⁴¹ The practice of placing divergent interests under the single category of Major Groups, and expecting them to combine their views into a single consensus, is portrayed as offensive and counterproductive to every one's needs, since it impedes their involvement. This has resulted in the waning of interest and participation of Major Groups, particularly in the wake of UNFF-5,

and the objection to Major Group involvement expressed by some governments.¹⁴²

Two UNFF reports have commented on the broader extent of external public participation in the programme's PfA. They acknowledged that: "action has been taken to promote stakeholder participation at various levels [but] further efforts are now needed."¹⁴³ Table 7.1 below gives the response of two social-environmental NGOs to a survey of UNFF's own participatory capacity, prepared as part of the IAF review process prior to UNFF-5.

Table 7.1 NGO response on the extent to which participation in UNFF's programmes and processes for implementing the PfA has been enhanced

Organisation	Structure	None	Limited	Moderate	High
FERN/Forest Peoples Programme	UNFF sessions	X			
	UNFF decisions/resolutions	X			
	Panel discussions at UNFF sessions		X		
	Country and organisation-led Initiatives		X		
	Reports of Ad hoc Experts Groups		X		
	CPF initiated activities			X	
	Contacts at UNFF sessions			X	
	Multi-Stakeholder dialogue	X			
	Actions by the UNFF secretariat		X		

Source: <http://www.fern.org> (accessed 04/05/05)

The attitudes of other sectors regarding UNFF's participatory capacity varied. The Confederation of European Forest Owners, and workers and trade unions, both Major Group members, ranked the enhancement of their participation as high. Interestingly, given the apparent inclusiveness of UNFF, three member

countries indicated that the enhancement of their participation had been limited. Six Member States, as well as the EU, gave a rating of moderate. Only two countries provided a high rating.¹⁴⁴

Commentators have called for UNFF “to increase the opportunities for meaningful participation by multiple stakeholders.”¹⁴⁵ They point to the need for greater inclusion of interests, particularly those, which both practice, and are affected by, forest management. For those who are already involved, particularly Major Group and civil society stakeholders, it is suggested that countries should include them as experts on their official delegations to enable them to more actively engage in discussions.¹⁴⁶ This is already happening in an informal manner.¹⁴⁷ The UNFF itself should adapt its procedures for such groups in order to make their participation more inclusive and substantive and in particular should experiment with new modes of participation and include Major Groups across the range of IAF activities.¹⁴⁸ In short, it should “make a concerted effort to invite and enable more civil society stakeholders to attend and participate.”¹⁴⁹ The UNFF is also criticised as being out of step with more inclusive policy processes, and the loss of NGO participation is attributed directly to this shortcoming.¹⁵⁰ In contrast, such processes as the FLEG and the Asia Forest Partnership (AFP) have made efforts to include a broader range of actors and stakeholder perspectives.¹⁵¹ However, with so many different interests competing within the system, other commentators see that UNFF’s agenda is over ambitious and is both unfocussed and bogged down as a consequence.¹⁵² On a more positive note, it is noted that UNFF-6 recognised the need to work with and receive input from regional and sub-regional stakeholders and made provisions for stakeholders from developing and transition countries to participate in UNFF.¹⁵³

Interviews

A wide range of comments was made concerning the inclusiveness of UNFF. The view was expressed across informants from group three that for the nation-states, the inclusive nature of UNFF was a good thing. One of the strengths of UNFF was that it had universal membership, which was not usual in the UN system, particularly as a subsidiary organ of the ECOSOC, which did not usually encourage such arrangements. It had been a very tough thing to negotiate within the UN diplomatic world in New York in 2000.¹⁵⁴ The fact that it included the administrations responsible for deforestation around the table showed that it had been responsive to the criticism that at previous processes, decisions had been made about forests, without the forested nations being present. At UNFF those with the responsibility were present, even if they did not have the money or the power to address the issue.¹⁵⁵ The presence of in excess of 180 countries meeting and engaging around discussions about illegal logging, enabling instruments, work programmes, and the goals and objectives of UNFF, was empowering. It would be easier if a lot of the countries did not attend. The fact that there were no major forest nations missing from the event was very powerful, even if it meant that the large number of participants made it difficult for people to achieve some of the things they wanted.¹⁵⁶

NGOs were generally negative. One commented that their involvement in UNFF could not be counted as participation because they could not make any changes to text. Participation did not even reach a level of being consulted, since they had been told directly by one delegation that NGOs were not wanted in the process, and no one had any intention of either explaining or changing their views as a result of listening them. They had initially put a lot of work into making

comments on the MYPOW, particularly regarding stakeholder participation, but questioned the current value of continuing to do so. After efforts to exclude NGOs from UNFF-6 the Major Groups' day had been reduced, and their status as observers only in plenary sessions had been further tightened. They concluded that at best participation in UNFF could only be described as lobbying. The only value it had was that it provided opportunities to meet and discuss broader forest issues with colleagues.¹⁵⁷ Another NGO commented on the consequences of the changes to the MSD. After UNFF-6 it had become even more difficult to convince NGOs to stay involved.¹⁵⁸ According to the business informant UNFF was too inclusive and was too diverse in its make-up to be genuinely effective.¹⁵⁹

Interviewees from the third group of informants were mostly sympathetic towards the inclusion of non-state interests, although their views as to what role they should and did play varied. Those with a positive perspective argued that a lot of countries like Australia and the US had lobbied very hard throughout the UNFF processes to make sure that the Major Groups were well represented and got the opportunity to contribute their perspectives.¹⁶⁰ But what needed to be understood was that the role of the NGOs was to bring issues to the UNFF, not advocate solutions, as these were not generally acceptable on account of their overly idealistic nature. It was the dialogue that NGOs had been able to initiate that was more significant. Raising the profile and attention paid to illegal logging was one such example.¹⁶¹ Nowadays at UNFF meetings Major Groups were a defined part of the system and the MSD was an attempt to ensure that that representation and input happened in a structured way. Governments needed other interests to assist them and it was therefore important to make sure that what was practical to implement reflected NGO input. Contrary to the views of NGOs, they

did not see the status of the Major Groups as a limiting factor any more -- so long as the constraints of the UN system were understood and accepted.¹⁶²

Other interviewees from this group had a more negative perspective on how non-state interests were included in UNFF and were particularly critical of the manner in which UNFF included non-governmental interests. UNFF was the only global political forum that addressed forests comprehensively, in all their aspects, economic, social and ecological. No other forum did that. The absence of NGO participation meant that a substantive part of the forest agenda was missing, which was a problem. If environmental NGOs in particular had a stronger role greater pressure could be exerted on aberrant countries and this opportunity was currently being missed.¹⁶³ This was to be contrasted with the Ministerial Council for the Protection of Forests in Europe (MCPFE) process, which UNFF would eventually follow in this regard. The MSD was far too restricted to be of any use. Most government delegates took it as an opportunity to go shopping. It would be better to include the Major Groups in formal sessions, and if necessary send them out during sensitive discussions, such as financing. They wanted to see more, not less, involvement of NGOs through the Major Group process.¹⁶⁴

This criticism of inadequate inclusion of non-state interests was not just confined to how stakeholders were managed within the MSD. One interviewee commented that despite being given special responsibilities for the effective functioning of the process, the ability even for their organisation to participate was limited. They could cite one case at UNFF-4, where they had been invited to present at a special side event. They were told just minutes beforehand that the event was cancelled because government ministers were using the room. Such behaviour made directing UNFF activities very difficult from a practical

perspective, and could be attributed to the fact that certain governments did not support the broader participation or involvement of any non-state interests in the deliberations of UNFF. This undoubtedly made the process weaker than it could be. A major participation gap in UNFF was the lack of any self-standing mechanisms through which scientists could offer independent assessments on the state of the world's forests, as they did in climate change discussions.¹⁶⁵

Three interviewees provided some interesting concluding observations. For UNFF to be successful, it needed to move beyond just having meetings in New York and Geneva with high-level diplomats into a process that was better connected back to a broad range of stakeholders back in the regions and in the individual countries, and not just the governments. This had led to efforts in ensuring new arrangements included a regional component of UNFF. Although some non-UNFF fora were more open than others, many were better than the traditional UN processes.¹⁶⁶ An effective regime needed to be participatory and it was hoped this would now be the case with the move to more regional meetings.¹⁶⁷ Finally, and significantly, there appears to be an underlying tension between Member States in the UNFF system over the level of non-state inclusion. One interviewee attributed the push by some governments to exclude NGOs from participating in UNFF-6 to the inclusion of NGOs in some delegations, and some governments wanted to be able to negotiate in an environment that was free of their influence. This led to the observation that governments favourable to NGO inclusion were now effectively prevented from discussing their position with such interests during sessions.¹⁶⁸

Evaluation

For nation-state participants, UNFF is highly inclusive, since it is open to all UN Member States. In terms of non-state participants, there is also a relatively broad range of interests represented within the Major Groups, although some commentators call for a greater spread of stakeholders. Nation-state interests also participate actively within the UNFF system, all sub-components of the system are open to their input, including the MSD, ad hoc expert groups, working groups, panel discussions and the like. Non-state interests do not participate as actively since they generally only have observer status in most structures, and a restricted degree of involvement in others, with the notable exception of the ad hoc group for the NLBI at UNFF-6. Although state interests experience a high degree of inclusiveness, non-state interests do not. Some Member States have attempted to include non-state interests in their delegations, but this has met with resistance from others. Consequently, the high and low degrees of inclusiveness are counterbalanced, leaving the system as a whole somewhere in the middle between inclusive and exclusive, with a rating of **medium**.

Equality

Glück et al recognise that the different forms of new forest governance need to be reconciled with contemporary demands for participation and the protection of rights. They see the necessity of having a general frame and purpose for forest governance that can be identified as legitimate by all concerned. Such a frame should address what they consider to be the most important and demanding linkage between all levels of SFM: the problem of social justice.¹⁶⁹ They envisage justice in terms of economic equality, whilst other observers relate justice and equity to how forest laws are framed and implemented, emphasising the linkages

between good governance, participation and sustainability.¹⁷⁰ Meaningful participation is seen as being essential for SFM, and UNFF is accused of unnecessarily constraining and even denigrating civil society participation and there have been calls for it to embrace non-state interests as equal partners.¹⁷¹ Other processes such as the ITTO and CBD have been identified by NGOs as providing much greater access. This may go some way to explaining the growing stridency in the criticisms made by some non-state interests over the course of UNFF.¹⁷² UNFF's lack of equality has also been contrasted with other intergovernmental processes such as those covering fisheries, or water, where those involved engage in partnerships in which all stakeholders have joint ownership of the question concerned. In UNFF by comparison, even countries that have a tradition of supporting multi-stakeholder participation have not been particularly responsive to NGO concerns.¹⁷³ UNFF's structure and process are seen as limiting non-state interests to such an extent that their interest in remaining involved has "fluctuated, then dissipated and is now marginal."¹⁷⁴ This problem has been identified in some of the entities associated with UNFF. As early as UNFF-2 NGOs called for UNFF-related entities to ensure greater balance of interests in its activities at international, national and local levels, and singled out the CPF in this regard.¹⁷⁵

Interviews

Perspectives on the nature, degree and expression of equality varied between NGO/business interests, and from those within the third group of informants, who were generally more involved. According to the latter group, UNFF was a government-led process under the framework of the United Nations, and this was why government delegates had a better position here than other interests. Other

interests had much greater difficulty in participating, which explained why so much of the activity actually took place in the corridors between meetings.¹⁷⁶ The rules of procedure of the United Nations, which applied to the UNFF as a subsidiary body of the Economic and Social Council did limit the participation of stakeholders to quite a considerable extent.¹⁷⁷ This was on account of the fact that although UNFF had mechanisms for the participation and engagement of non-country members, it was still a country dialogue. It was not the intent or the desire of UNFF to treat non-state interests as second-tier participants, but the reality was that the voice of countries had a priority over organisations, which did not reflect country perspectives. Non-state involvement was problematic because a number of countries in the process had very strong feelings either for or against the engagement and participation of the Major Groups. Some countries had threatened to walk out of discussions on account of what role Major Groups should or should not be allowed to play.¹⁷⁸

However, it was simplistic to argue that equality of participation would be improved merely by giving everyone an equal voice. This was not possible with usually well over 200 people in attendance at UNFF sessions. Equality was delivered by listening to what all interests said, and giving them an opportunity to participate and to develop processes, mechanisms and incentives to have as broad participation as possible.¹⁷⁹ One problem identified was that UN processes were more structured and constrained than other events. Regional forest-related meetings, which fed into UNFF, allowed people to participate as relatively equal representatives.¹⁸⁰ Nevertheless it was true that NGOs felt UNFF offered less opportunity for participation than other UN-level processes such as the CBD, which they regarded as “the place to be” and consequently gave it a higher

profile.¹⁸¹ However, the real extent to which NGOs could really influence the decisions in CBD was questionable; their impact on CBD decisions was probably no greater than in UNFF.¹⁸²

One NGO informant described the nature of their participation at UNFF in comparison to IPF/IFF, where the interviewee had actually been involved in drafting some of the original PfA, including those on traditional forest-related knowledge and the underlying causes of deforestation. At UNFF groups had the right to intervene in plenary sessions, but had observer status only in working group sessions and they could not participate in drafting at all. UNFF had proved to offer little more than an opportunity to lobby governments, such as those in the EU, usually resulting in little action, which was “very disappointing.”¹⁸³

One interviewee from the business sector was deeply critical of the lack of status accorded to the multi-stakeholder dialogue in particular. It was usually placed on day two when all the governmental delegates were negotiating elsewhere, and there was “virtually no one in the audience.” They felt that a number of governments, as well as the secretariat were not really interested in multi-stakeholder input.¹⁸⁴ One interviewee from the third group of informants agreed with this observation. They portrayed the MSD as “completely ineffective” on account of the lack of interaction, as it was structured in such a way that interactive dialogue was not possible. In comparison, discussions with NGOs and the private sector in the MCPFE were much more “natural.” There, although non-governmental participants still had to wait until after the government representatives spoke, they tended to stay throughout the talks as the chair always ensured their items were put on the agenda and discussed.¹⁸⁵

Evaluation

Nation states have extensive opportunity and the capacity to participate in UNFF's structures of governance. They can vote, negotiate text, draft decisions and make agreements. Non-state interests cannot. These rights of access give nation-states a much greater capacity to participate in, and make use of, UNFF's facilities than non-state interests, since their access is more restricted. Nation-states have a high degree of influence within the UNFF system and over its outcomes, dependent on their geo-political power and strategic alliances. Non-state interests are less able to influence the UNFF system since their involvement is relatively restricted under ECOSOC rules. Their power is based largely upon their ability to lobby effectively, and they cannot directly affect the outcomes of sessions. Nevertheless, the UNFF is characterised by a low degree of equality amongst its participants, with a rating of **low**.

Resources

Forest-related programmes can be both time and resource intensive, and the processes themselves require adequate resources for facilitation and management. Glück et al argue that effective policy networks (which UNFF is an example) may require what they refer to as political-administrative capacity.¹⁸⁶ UNFF's effectiveness at this level has been challenged, since NGOs identified financial constraints in the MSD of UNFF-4 as the "main obstacle to creating and implementing capacity building programmes on both national and local levels."¹⁸⁷

UNFF itself has recognised that capacity-building and technical and financial assistance, are "crucial preconditions for strengthening governance systems."¹⁸⁸ Institutionally, it has also acknowledged the need to assist stakeholder groups that have limited capacity or opportunity to participate in the implementation of its

PfA.¹⁸⁹ A draft resolution put forward at UNFF-2 regarding the provision of travel assistance and a daily subsistence allowance for member state participants from the least developed countries and countries with economies in transition was subsequently adopted at ECOSOC.¹⁹⁰ At UNFF-3 it was agreed that the Forum should formally constitute a Trust Fund, which should be used for the assistance of developing country delegates to participate in future meetings.¹⁹¹ By UNFF-6, the Bureau identified an “overwhelming” need for travel support from participating developing countries, which exceeded the allocated budget of approximately \$120,000 by some \$350,000, and additional funds had to be sourced from donor countries.¹⁹² In accordance with General Assembly decision 58/554 of 23 December 2003 the emphasis on provision of support is for participants from the least developed countries, and countries with economies in transition.¹⁹³ Travel assistance is also provided to government-designated experts participating in expert groups and the like.¹⁹⁴

UNFF commentators have stressed the importance of effective, rather than wasteful resource management, but they are not sure of UNFF’s capacity to meet this need and consider it “ill-equipped” as an international forest governance system.¹⁹⁵ This is largely a result of resource constraints. It has no budget for operational programmes, and this places limitations on its ability to take action directly.¹⁹⁶ One critic argues the UNFF should facilitate the implementation of the PfA, but despite having a secretariat of 15-20 people in New York it has no funds or capacity to do so. This is left to the other organisations that collaborate in the CPF, such as FAO and ITTO, although establishment of CPF is considered the most valuable outcome of the IPF/IFF.¹⁹⁷ Yet the CPF has no budget and staff either, but conversely, its lack of formal organisational status within UNFF may

have enhanced its ability to develop several useful products, even if half of its members do not participate actively.¹⁹⁸

Several areas have been identified where UNFF requires additional resources in order to increase its role in encouraging participation and collaboration around forest management.¹⁹⁹ It is recommended that stakeholders, partners, multi-stakeholder partnerships, and the Major Groups be provided with the financial and technical support to participate, consult and collaborate within new participatory modes and initiatives across the entire range of IAF meetings and events.²⁰⁰ Regrettably, however, UNFF has been unable to obtain resources for SFM by reversing the decline in official development assistance (ODA) from donor nations.²⁰¹ This trend is likely to continue: “unless it addresses the fundamental structural and procedural weakness that currently limit its effectiveness.”²⁰²

Interviews

The comments from interviewees regarding the resource-related aspects of participation and interest representation in UNFF are more thematic, rather than partisan, in nature. The cost of attendance is a cross-sectoral concern. Distance from New York, and the cost of accommodation was identified as a barrier to participation by several attendees.²⁰³ For countries closer to New York, attendance was less burdensome.²⁰⁴ Others noted that UNFF was costly in terms of the amount of time it took up, as well as being financially draining. Two weeks in New York hotels, the flights and being paid for the work time was really expensive in comparison to the generally unsatisfactory outcomes that were negotiated. They agreed with NGO criticisms that the money could be better spent.²⁰⁵

The provision of funds by UNFF itself, and by governments for national interests to attend was also discussed. UNFF received a regular budget from the UN and some money for travel support for developing countries only.²⁰⁶ Developing country government delegates received a per diem for the whole two weeks; there was usually at least one from each developing country, about fifty all told.²⁰⁷ Developed countries also provided some contributions to UNFF trust funds to facilitate participation of representatives from developing countries that were not well resourced.²⁰⁸

It was also acknowledged that NGO resources were limited, and that they needed to be present at all the international processes that worked on forest issues.²⁰⁹ Although money for NGO participation was not officially permitted, one NGO informant explained that they had received travel support as well as 3 days' worth of *per diem* expenses. Previously they had succeeded in convincing UNFF that it was important to provide support for at least one or two others to have more NGO representation.²¹⁰ There had been no mechanism for the UNFF secretariat or the UN or the ECOSOC system to officially fund NGOs, although some funds were made available to non-governmental representatives from 2004 onwards.²¹¹

Generally, the UNFF secretariat preferred to encourage governments to include non-state interests in their delegations, and to find other organisations to support that, such as FAO. FAO could not directly fund participation either, but it was able to come up with some creative methods instead such as engaging people as "resource persons", or keynote speakers, and pay them that way.²¹² One interviewee noted that their country contributed to the trust fund, and stressed that it did not get to exercise any choice over who was funded with their monies,

except that they were governmental representatives.²¹³ One interviewee commented that their country had found that holding regional workshops, and bringing interested parties together to explain what was going on and help them find a way to contribute back into that process on an ongoing way was more efficient.²¹⁴

Another issue, and one that led to expressions of frustration amongst some interviewees, was that there was no real financing mechanism for the UNFF itself. UNFF was effectively a voluntary process as it had no formal legal status and was therefore not supported by the normal UN budget. Extra meetings between sessions needed to be financed to keep the process moving forward.²¹⁵ As a reporting mechanism UNFF's contribution should not be undervalued, because a lot of countries tied their aid budget to reporting. But if a country could not even report the basic fundamentals of certain activities, it was a major issue and needed to be addressed. The EU and a number of individual EU member countries had consequently invested considerable amounts of money on some of the fundamentals that were involved in reporting.²¹⁶ A formal Trust Fund existed, but it was not well endowed and was really only there to support the participation of delegates from developing countries, and some participants in the multi-stakeholder dialogue. There were no broader funding mechanisms for the implementation of the political commitments made by the governments at UNFF.²¹⁷ UNFF itself did not require a giant budget, but the collaborative mechanisms that sat underneath it needed sufficient funds to make realistic progress, and that was not happening at all well. The biggest general criticism that could be levelled against UNFF was that the requirements did not match the

resources, and a way had not yet been found to increase the resources available to implement the agreed outcomes.²¹⁸

One interviewee commented that governments looked to the UNFF to deliver a proper financing system for forest-related agreements. Some of the largest donors were beginning to comment that their generosity would not last forever, particularly when taxpayers wanted to know what their money was being spent on. They provided an example of a country that had paid for four inter-sessional activities in the previous seven or eight years in order to see things move in the direction they wanted. This country was also financing the Secretariat, and was expecting progress on some kind of instrument, or it would stop funding the process.²¹⁹

The relationship between the provision of funds and the relative power of Member States within the UNFF process was discussed by a number of participants. The US was a very large donor to the Trust Fund, which gave it more influence and it used its monetary donations to exert pressure during the negotiations. When financial issues were raised the first thing the US delegation did was to point out that it paid all these millions of dollars, and who else was paying? The European Union for example would then be invited to pay as much as the United States if they wanted to move the process forward. The US did not want anything at an international level that directly influenced their own national forest policy so they used their money as leverage to prevent a formal and legally binding convention; they had used their money to create an “unholy alliance” between themselves and Brazil block it.²²⁰ At least half a dozen members of the EU were also major donors but they wanted a legally binding forest instrument. Despite the aid Brazil received from EU members, the economic forces backing

its rejection of any kind of global forestry instrument were stronger.²²¹ Countries therefore participated on an unequal footing in terms of the resources they had to engage in such global forest-related processes as UNFF.²²²

As a result of such crosscutting issues, the funding question was never far below the surface at UNFF. Several of the developed countries with the most funds did not have significant forestry activities, which influenced the nature of their input into discussions about funding.²²³ Their primary preoccupation was whether or not there should be a forest convention. For developing countries and economies in transition like Russia, obtaining money for environmental programmes had been a preoccupation since before Rio and as far back as Stockholm in 1972. They were often quite willing to do deals to get it, but developed countries did not want to focus on money. This was a constant source of frustration for developing countries.²²⁴

Competition for money also made relations between the various forest-related initiatives at the global level highly politicised. Within UNFF itself, governments did not fund CPF but rather the participating organisations within it. FAO for instance, it was alleged, had a largely agricultural mandate and tended to downplay natural forests, as a result spending most of its time promoting plantation establishment. The CBD was a much better convention than anything UNFF was likely produce, but its biggest problem was a lack of funds, and it was constantly under threat of losing funds to UNFF. The CBD was comprised mostly of environment ministers; forest ministers on the other hand attended UNFF. Conflicts between ministries over domestic funding played themselves out at the international level.²²⁵

Evaluation

Although taking time to reach a formal agreement, UNFF, and particularly the Bureau, has put some effort into securing funds for developing country participation. The establishment of a facility within the Trust Fund for developing countries, as well as the provision of resources from donor nations to provide travel costs, and the availability of per diem expenses are valuable contributions. The situation for the Major Groups is less satisfactory. Although some funds are available for NGOs, these are only on a quasi-official level, and still insufficient in terms of providing for widespread representation. The high level of support for developing countries is consequently moderated by this state of affairs. On a broader level, however, the lack of funds to support the operational aspects of the system, such as the PfA, impacts not only on the participation of internal, but also external, interests in the system, such as those acting on a regional or national level. Secondly, although monies are provided for interest representation by donor countries, such funds can at times be highly politicised, and used to ‘buy’ favours (such as support for or against a NLBI). This also impacts on accountability. All these factors combine to produce a rating of **low**.

Organisational Responsibility

Accountability

In 2004 the International Labour Organisation (ILO) World Commission on the Social Dimension of Globalization identified a number of significant problems associated with global governance, stemming largely from economic inequality, but compounded by the low degree of accountability and transparency of decision making procedures at the intergovernmental level. Particularly problematic was the fact that governments often adopted positions in such international arena, which were seldom the subject of parliamentary oversight at the national level.²²⁶

UN Secretary-General Kofi Annan in a chapter on globalisation and governance contained in the *Millennium Report* also emphasised the connections between better governance, greater participation and accountability.²²⁷ The failings of the UN system in the environmental arena in this regard have also been highlighted through the UNEP International Environmental Governance (IEG) process.²²⁸ Institutional reform has consequently been identified as a priority area within the UN system. Recognition of the linkage between accountability and transparency has also been reflected in calls for independent monitoring, assessment and reporting of all international institutions.²²⁹ Increasing the collective accountability of UN Member States has been identified as an important step.²³⁰

Two mechanisms can be considered to hold countries accountable for their actions at UNFF. The first relates to the reporting on the status of Member States' efforts in implementing the IPF/IFF PfA domestically. The second concerns the IAF, a country-by-country review of which was to be made available at UNFF-5, and which is to be periodically re-examined.²³¹ In the broader UNFF system, NFPs, model forest networks and community-based forestry are the principle models of forest partnership on the national, global and local levels.²³² Governance scholars have noted the inherent problems of accountability in network governance and the democratic challenges public-private partnerships pose.²³³ During the MSD held at UNFF-4 NGOs stressed that effective partnerships between governments and non-state interests required clear agreements and jointly defined roles and responsibilities, reflecting the will of participating constituencies.²³⁴ Accountability in such relations was identified as being essential in ensuring the credibility of such approaches.²³⁵ NGOs expressed

a note of deep concern that some types of partnership were “often established without the adequate participation of civil society.”²³⁶

UNFF’s ad hoc expert groups consist of experts designated by governments but nominated in their personal capacities not as governmental delegates. The intention behind this is to avoid promotion of government positions. However, this arrangement has led one commentator to observe that “many governments appointed senior negotiators to the expert groups, with the unsurprising result that the views expressed by experts often bore a striking resemblance to government policy.”²³⁷

Interviews

All sectors commented on the degree to which government delegates could really be considered accountable to other participants in the UNFF system. According to one interviewee, one of the biggest problems with UNFF was that governments, who were also the largest forest owners, did all the negotiating. They would not stand for a process that criticised how they managed their forests in any way.²³⁸ The problem of corruption was also a major problem. Money given to Russia, or many African countries, or Indonesia, never got to local communities, and either went to the banks in their capital cities, or was simply stolen and sent to Switzerland or Luxembourg.²³⁹

Further comments were made from the same group of informants about the behind the scenes directing undertaken by the UNFF Secretariat prior to sessions. Some issues got put on the agenda that were more about giving the Secretariat a higher profile within the UN system than the meeting the needs of Member States. They were about enabling the Secretariat to demonstrate to the UN hierarchy that it was following broader UN programmes, such as sustainable development. This

informant felt that the Secretariat had forced certain issues onto the agenda of UNFF that were tangential to forest issues.²⁴⁰ Others attributed a less devious motive to the Secretariat's actions. The Secretariat did a lot of its own thinking and preparation before meetings. When discussions proceeded in a direction, which deviated from their desires and expectations, they did at times attempt to steer the way things progressed. This informant felt such attempts to lobby or influence the process were done with good intentions and did not impact the course of discussions, but to stay abreast of developments. They added further that it was common for UNFF participants to lobby the Secretariat since it moved around various international fora, and knew what was going on.²⁴¹ Another concern raised was the reporting around donor countries' expenditure. It was crucial to them to have a framework that gave a greater degree of assurance that the money their country invested in projects had a sustainable impact on the ground, and not just to finance the project for two years. They needed to demonstrate to their parliament and taxpayers that their contributions had achieved something to reduce the 15 million hectares of global forest loss per year and wanted clear rules, clear obligations for countries, and verification mechanisms.²⁴²

Other informants felt country delegates were not really accountable to other stakeholders. During the MSD governments "dumped" their most junior people in the seats and went shopping. Yet they were the same governments that stated in the negotiated text how important participation was. There was no real intention to open the system to their involvement, in comparison to such institutions as FAO.²⁴³

Evaluation

UNFF, like other intergovernmental processes, operates beyond the mandate of national-level parliaments, and its degree of ‘vertical’ accountability in terms of the direct responsibility of national governments to their domestic constituents is questionable. However, it should be noted that the existence of the linkage back to national level forest processes via National Forest Programmes partially mitigates this. Nevertheless, there is a compelling case to be made that there is little opportunity for Member States to be held accountable within the UNFF framework for their forest-related activities particularly since all the main intergovernmental instruments are voluntary. Within the Forum itself it could be argued that there is also little ‘horizontal’ accountability of Member States to other participating interests, such as NGOs, or the scientific community. Indeed, some countries have attempted to restrict even those aspects of UNFF, such as the MSD, or national level delegations, where non-state participation might challenge the actions of certain governments. Further accountability problems exist in relationship to the role played by government appointees in the various ad hoc committees and the subordination of scientific knowledge to matters of diplomacy, even if such issues are not unique to UNFF. There is also some ambiguity regarding the role played by the secretariat in furthering its own institutional ends, and its susceptibility to lobbying by national delegations. Accountability in the UNFF system is **low**.

Transparency

UNFF has acknowledged transparency as an “indispensable attribute of good governance.”²⁴⁴ Institutionally, it was also committed from its inception to build on the “transparent... practices” established by the CBD, IPF and IFF.²⁴⁵

Documentation also comments on the importance of “transparent and participatory practices, including multi-stakeholder participation at the national level” as part of the requirements for implementing SFM “in a cohesive and comprehensive manner.”²⁴⁶

ECOSOC resolution 2000/35 requires governments to be the principle agent responsible for the monitoring, assessment and reporting on the implementation of the IPF/IFF PfA.²⁴⁷ Non-state interests may only sit in as observers on public meetings and only when matters in their competence are discussed.²⁴⁸ Concerns over transparency led NGOs at UNFF-4 to stress the need for UNFF and its associated entities to demonstrate transparency regarding information communication, publication and dissemination. The use of third party observers was recommended as a way of increasing accountability and transparency. Lack of access to information and communication networks were identified as hampering the ability of stakeholders to be involved equally and to maintain constant participation.²⁴⁹

The reporting on implementation of the IAF is expected to operate in a transparent manner.²⁵⁰ In order to meet this commitment, it was agreed at UNFF-2 that country reports, as part of the review process, would be made available at UNFF-3 and subsequently.²⁵¹ In the period after UNFF-4 and prior to UNFF-5, participants were requested to report on their forest-related activities, for consideration at UNFF-5. The study was two parts: an analysis of the progress in implementing the IPF/IFF PfA, according to the 16 thematic elements, and a review of the effectiveness of the IAF according to six principal functions.²⁵² Regrettably however, it was determined that the reporting process should be voluntary.²⁵³ Responses to a preliminary questionnaire were received from just 14

Member States, five relevant organisations and forest-related processes, and a joint submission from the members of the CPF.²⁵⁴ An analytical study of the information collected, which was to provide the basis for a more formal report, noted that it had not been possible to give consideration to “information that might have been provided by countries that did not make reports or submit questionnaires.”²⁵⁵ A later revised version of the study was obliged to drop the separate analysis of the questionnaire responses, and instead included existing materials from the voluntary reports already presented by countries at UNFF-2, -3 and -4. By the middle of March 2005, 56 voluntary reports and/or questionnaire responses had been received from Member States, relevant organisations and forest-related processes. The final report was published after UNFF-5 and contained 74 voluntary responses to the report and questionnaire.²⁵⁶

Interviews

Discussions relating to transparency within UNFF, and the degree of responsibility demonstrated by participating organisations was confined to comments about the institution itself and the role played by governments. One NGO informant criticised the failure of UNFF to insist on strong transparency mechanisms for national reporting. It had developed a weak process oriented around a questionnaire with few substantive reporting requirements, and which few countries had filled in. With such inadequate reporting it was impossible to tell what was really being done. Less than two per cent of participating countries reported on their activities for more than four years, and a large number had not reported on their activities even once.²⁵⁷

Another interviewee from the third group of informants provided an alternative perspective. They explained that it was the PfA that should be understood as the

main transparency mechanism for UNFF, in so far as they provided a means whereby countries could report on their legislative frameworks and how they functioned in relation to forests. For some this was the first time they had been exposed to such a concept. It was true that the proposals contained no enforcement or monitoring provisions, but UNFF had nevertheless provided an environment, where countries could come together and discuss issues of mutual concern. Whether increased transparency flowed on to any concrete action on the ground would only become apparent over time.²⁵⁸

Other informants from the same group were less complimentary in their analysis of government behaviour. The way in which governments met to negotiate text was not open. It was true that UNFF was an intergovernmental body, and that governments were its major clients, but in terms of transparency, the opportunities for either the members of the CPF, the Major Groups or any other NGO stakeholders to participate were “very limited.” There needed to be much greater transparency in the system to achieve this. At present non-state participation was accorded nothing more than lip service.²⁵⁹ Another contrasted UNFF’s lack of transparency to the MCPFE, where draft resolutions were still negotiated by the Member States, but all interests were present during these negotiations. In UNFF all major negotiations occurred behind “closed doors.” The interviewee wondered whether the outcomes and the generally constructive nature of discussions in the MCPFE were a consequence of the greater transparency of the process.²⁶⁰

Evaluation

There are at least four issues relating to an evaluation of the transparency of UNFF. The first relates to the inconsistency, or lack, of national level reporting.

Secondly, and relating to openness, is the manner in which Member States negotiate among themselves in sessions generally closed to non-state interests. Thirdly, concerning the availability of, and access to, information, UNFF's performance is mixed. Its past, present and proposed future activities are freely available on the Internet, but the session reports are couched in largely neutral terms, and do not discuss the diplomatic nuances of any deliberations (this is left to the *Earth Negotiations Bulletin*, an external NGO publication). However, detailed financial reporting, such as income and expenditure, the allocation and amount of travel expenses and *per diems*, and donor country contributions to the Trust Fund is not available. Requests for more detailed financial information from UNFF were not forthcoming.²⁶¹ Shortcomings in member state reporting, the closed nature of state deliberations, and lack of financial reporting undermine an otherwise medium performance in terms of access to information, resulting in a rating of **low**.

Decision Making

Democracy

UNFF follows ECOSOC's *Rules of Procedure* whereby each member state has one vote.²⁶² Yet despite the existence of voting rights, by convention, these are not exercised. As a result, it has been argued, Member States have become clustered within a series of "veto coalitions" where particular actors whose cooperation is needed on a given issue create alliances between convergent interests to block change. Such coalitions are often clustered around issues such as financial assistance and state sovereignty and have historically hampered other consensus-based forest deliberations including the TFAP, the ITTO and the

UNCED process.²⁶³ Consensual decision making processes, the format UNFF follows by default, are particularly prone to such coalitions.²⁶⁴

Regardless of the conventions, non-state interests do not have the right to vote. Any rights they are given depend on what type of organisation they constitute, although the categories are not entirely clear.²⁶⁵ Specialised agencies cannot vote, but may be represented at meetings and may participate in deliberations, which relate to items of concern to them, and may submit proposals regarding such items. Other intergovernmental organisations accorded permanent observer status by the General Assembly may participate in deliberations of relevance to their activities without the right to vote. Non-governmental organisations may be granted consultative status according to the determination of the Committee on Non-Governmental Organisations.²⁶⁶ These rules were supplemented by arrangements, which permitted NGOs to make written representations and speak (with permission) but not have any negotiating role.²⁶⁷ These slight amendments, which granted NGOs the right to speak on the general business of UNFF, it was stressed, were not to be seen as setting a precedent.²⁶⁸

Interviews

The impression created by interview subjects was that the degree of democracy experienced at UNFF depended on the extent of participation in the system. According to one actively participating informant, because the UN was a body made up of Member States, government delegates always had a greater capacity to influence the outcomes than any others. It was an artefact of the UN process that the people negotiating the final text on any negotiated decision were government people. But there were ways to work with the non-government representatives to ensure that they achieved the outcomes they wanted -- at least

within the confines of the UNFF process.²⁶⁹ Another similarly active interviewee agreed, noting that although UNFF had mechanisms for the participation and engagement of non-country members, it was still a “country dialogue.”²⁷⁰ One interviewee from group three felt NFPs were intrinsically more democratic than the UNFF, since they actively encouraged a much broader range of interests to come on board. They were very critical of UNFF’s rules of procedure, but noted that this was probably a common problem for all fora sponsored by ECOSOC.²⁷¹ Other existing regional forestry-related fora had proved more useful in obtaining regional input into future UNFF deliberations, which could then be taken up at UNFF itself.²⁷²

In terms of non-state input, it was acknowledged that the direct impact of the Major Groups on the negotiations was “very limited.” They could raise their issues by means of public statements, but they were seldom acted upon. Informally, the channels of communicating were there, but once the discussions went into pure negotiation mode after the generic statements of day one, the dialogue between the governments and NGOs and private sector stakeholders, or other international agencies was basically over. There was no further exchange of experience, and very little any stakeholder or any international agency could do from that point on.²⁷³

One NGO informant commented on the impact of the democratic failings of UNFF. Representatives from the World Bank, or UNDP, for example, had exactly the same experiences to NGOs. They usually left after attending the high level segments deeply disappointed by the extent of discrimination against non-state interests. Consequently, they now tended to send only low-level staff, and there was no real collaboration with the process.²⁷⁴ Another described the negotiating

process as “really stupid”, because non-governmental participants never got to say anything, and had to resort to sneaking around to governmental delegates and whispering in their ears, in order to get them to ask questions on NGOs’ behalf. UNFF-5 had been particularly non-democratic and some governments had pushed to exclude NGOs from UNFF-6 entirely. This had led some NGOs to spend most of their time at UNFF-5 lobbying for the process to be abandoned all together.²⁷⁵

Evaluation

Democracy functions as a two-tier system in UNFF. Member States have the right to vote, and non-state interests do not. In the case of the latter group, participatory rights are further differentiated between specialised agencies and other intergovernmental agencies, and NGOs. This second-class status affects the extent to which some non-state interests have exercised the rights they have been given, potentially rendering the system less effective. However, in view of the fact that Member States do not exercise the right to vote, and that divergent interests spend much of their time simply blocking one another’s interests through strategic use of their de facto veto powers, democracy in UNFF is **low**.

Agreement

Formal agreements in UNFF are referred to either as resolutions or decisions. The difference in status between a resolution and a decision in the UN system is important. A resolution has been described as “a statement of political commitment that has been agreed by a group of states, but which is not legally binding.”²⁷⁶ UNFF resolutions are to be understood as part of an increasing trend to create ‘soft law’ regarding forest issues and which constitute political, rather than legally binding commitments. Decisions on the other hand do not even

constitute soft law since they deal only with procedural and administrative matters.²⁷⁷

Voting by Member States may be conducted by a show of hands, roll call or mechanical means, or by secret ballot.²⁷⁸ Decisions are made by a majority of the members present. Where no member requests a vote on any proposal or motion, the proposal or motion may be adopted without a vote. Equally divided votes are resolved in favour of the negative.²⁷⁹ At UNFF, as with IPF and IFF, no matter has ever been taken to a vote.²⁸⁰ UNFF's use of consensus led the writers of the *Earth Negotiations Bulletin* in their analysis of UNFF-6 to conclude that "pursuit of consensus on forest issues at the highest level has produced a document limited by the lowest common denominator."²⁸¹ UNFF's ad hoc groups are formally obliged to make decisions by consensus.²⁸²

Interviews

A range of interviewees commented on the nature of decision making, particularly the use of consensus, within UNFF. Views from the third group of informants varied. Apologists explained that the UN system had its own rules and regulations, and was a very complex, defined process. This was a constraining factor, but it was very difficult to change the rules just for forests, because the same rules existed for every kind of interaction.²⁸³ If there was no consensus, there were no outcomes, as had been the case at UNFF-5 where no decisions had been made.²⁸⁴ This meant that consensus the outcomes were not always the best, but if non-consensus meant nothing happened at all, it was better to live with the decisions that were made. At least there were opportunities for further input; by keeping people engaged over time, things could be changed.²⁸⁵ It was also

important to understand that there was a subtle difference between consensus and lack of objection. In UNFF, decisions were made on the basis of both methods.²⁸⁶

Other informants from the same group were less positive. One subject commented that there was in fact a majority in UNFF who were prepared to take action but the sad thing was that because UNFF needed consensus to achieve anything, everyone had to wait for the very last of the minority of countries to say yes. Despite the existence of the appropriate procedures, there was no point exercising the powers of majority voting. Voting against powerful countries anywhere in the UN system led to impacts on the UN's overall operational budget, so without consensus it was impossible to get anywhere.²⁸⁷ The situation was further exacerbated by the fact that UNFF hardly ever reached consensus because ambassador-level staff did not really have a mandate -- or, in fact, sufficient knowledge -- to discuss technical matters, so the negotiations could not really work.²⁸⁸

On the subject of the negotiations themselves interviewees from both group three and the NGOs made a number of observations. NGOs were, not surprisingly given their minor role as outside observers, generally negative. One of the interviewees argued that had never been any "substantive discussion" in either the IPF/IFF or UNFF sessions. All the processes had been highly politicised since most countries sent diplomats, either from their embassies or from their ministries of foreign affairs and they knew nothing about forests or biodiversity. The only issue that mattered to them was whether they should oppose or support a legally binding convention.²⁸⁹ Another commented that negotiations were too long and by the end everyone was exhausted. People were always prepared to think creatively at the beginning of sessions when the text drafts were first exposed, but after days

of inserting square brackets and alternative wording people got to the stage where they did not care what went in. At UNFF-4 for example delegates had discussed indigenous peoples' rights and had developed some good ideas, but negotiating the text had proved to be such a failure that everybody simply agreed to drop the whole idea.²⁹⁰

Given the active role some of them played in negotiations, interviewees from the third group were more philosophical. One made the observation that outsiders (meaning NGOs and other interested parties) tended to look at the process naively or with unrealistic expectations. Parties to the negotiations by contrast recognised the degree of compromise that went into formulating any outcome and how little resemblance it bore to the original proposal, but that was part of the challenge.²⁹¹ They did comment however that regimented positions put forward before meetings could be very constraining. Countries that went along with a more open mandate and broad range of objectives rather than predetermined text allowed for negotiations to proceed much more smoothly. This resulted in more productive engagement leading to more mutually acceptable outcomes. UNFF-5 had been a wasted two weeks because of the decision amongst several countries to arrive with predetermined positions. At UNFF-6 a number of those countries came back with the understanding that such an approach would spell an end to the whole process and had negotiated with an entirely different mindset.²⁹²

Another participant described negotiations as “really tough” since there were also coordination meetings amongst politically allied delegations to discuss what had happened during the day, and examine what strategies should be adopted.²⁹³ This made for an intensive process of post- and pre-meeting meetings.²⁹⁴ As a consequence there was inevitably a lot of “diplomatic tap-dancing” that went on

as a result of all these behind the scenes strategising, and agreements were progressed “very, very slowly.”²⁹⁵ This led to the conclusion by one informant that when agreements were made, they were probably as good as they could get given the size and nature of UNFF.²⁹⁶

Despite the philosophical stance taken by most interviewees from this group, there was a sense of frustration as well. One stated that their country’s interest did not lie in the UNFF only being a discussion forum. They wanted a venue capable of bringing forward concrete agreements, standards, and implementation systems.²⁹⁷ Another had reached the stage where they had given up on the type of instrument (legally binding or otherwise) and merely wanted a strong instrument to enable negotiators to go back to their own countries and increase the domestic political pressure for action.²⁹⁸ After years of negotiation the reality was that environmental matters had been discussed in such detail since Rio that negotiators had effectively exhausted their room to manoeuvre on anything.²⁹⁹

Evaluation

The process of coming to agreement in UNFF is subjected to a number of countervailing forces. On the one hand, the official procedures, which are clearly defined, and recognised by all parties, are never used. On the other, the actual method used, the “gentleman’s agreement”, is a source of almost universal frustration. Decisions, which might otherwise be approved by a majority of participants, do not get made. This results in difficult and complex negotiations based around compromise. In such a context consensus is used not as the preferred tool, but one that generates the ‘least bad’ outcome: no one is offended, but no one is pleased. Whilst this may reflect the *Realpolitik* of the broader UN system, agreement in UNFF does not merit a rating of anything other than **low**.

Dispute Settlement

Dispute settlement mechanisms across the UN system have been identified as inadequate.³⁰⁰ One problem identified in the literature on multilateral environmental agreements in particular is that dispute resolution mechanisms are often weak, and parties reluctant to use them.³⁰¹ Commentators blame the conflict in UNFF on the focus given to text negotiation rather than collaborative dialogue. The emphasis on negotiating text as the primary method of deliberation, stems largely from arguments for or against a legally binding convention, and has resulted in a process- rather than output-oriented focus in UNFF.³⁰² The current method of intergovernmental bargaining has resulted in a form of “disconnected politics” lacking in coherence.³⁰³ Substantive agreements in comparison increase with greater acknowledgement of diverse actors.³⁰⁴

Interviews

Informants did not comment in detail of the settlement of disputes in UNFF, although the comments made were generally negative. One NGO interviewee characterised most of the UNFF discussions as being one single dispute over national sovereignty, expressed through the conflict over what type of forest instrument to adopt.³⁰⁵ This was corroborated by a second, who portrayed UNFF-5 as being a “fight” between the EU, which wanted a legally binding instrument, and Brazil and a number of other southern countries, who wanted no legal obligations but plenty of funding.³⁰⁶ One interviewee, from the third group of subjects, commented that because a minority of countries continually blocked developments, there was no real will to change anything at UNFF.³⁰⁷ This was because, in the opinion of another subject, voting blocs made things difficult for many participants.³⁰⁸

Criticisms were not confined to the oppositional role played by recalcitrant nation-states. One informant from group three also commented on the negative role played by “professional opponents” in the NGO sector. They functioned at such a high level that they were completely disconnected from the interests on the ground that they were supposed to represent. They were no different from governments, in that they were well paid and spent most of their time in New York or travelling the world. Discussions became more useful when there were presentations from private practitioners such as forest owner associations, who presented on how to approach real problems. The generalised theoretical and dogmatic demands made by internationally active NGOs were not really that helpful, even if some governments believed they should participate.³⁰⁹

Another informant from the third group recalled that they did know of one formal complaint. It had been lodged by the UK with the Secretary General concerning the failings of the UNFF Bureau and Secretariat in relation to UNFF-5, and their failure to obtain a formal ministerial declaration at that session.³¹⁰ Another interviewee from the same group commented that disputes were sometimes settled through the mediation of countries that were seen as not having a strong vested interest, and were not part of the big power blocs.³¹¹

Evaluation

Disputes are not settled in UNFF through any formal procedures, and are reinforced by informal, issue-oriented voting blocs, that impede collaborative discussion. With the exception of the entrepreneurial, or go-between, activities of some well-regarded Member States, text negotiation appears to be the only mechanism through which disputes are addressed. Dispute settlement in UNFF is **low**.

Implementation

Behaviour Change

According to Dimitrov, UNFF in particular, but reflecting the practice of other intergovernmental processes, is driven by a set of international norms, which are based upon “collective expectations for the proper behavior of actors.”³¹² He identifies an overarching phenomenon, the “norm of environmental multilateralism” (NEM) whereby governments are expected to address global environmental problems collectively, which helps explain the creation of UNFF. NEM has the undesirable result that when it comes into conflict with other factors (such as economic interest) it makes it prohibitive to actually disengage from such a prominent issue as deforestation. As a consequence “void” institutions arise, stripped of their policy-making capacity, and which do not facilitate policy coordination to halt deforestation because they are purely symbolic. However, no country can afford to declare outright opposition to combating deforestation. Consequently, UNFF as an institution of global environmental governance has become a way to avoid action whilst still appearing busy. He concludes that the relationship between norms, governance and institutions are not always coterminous, and the UNFF is one such international organisation, where the intention is not to provide governance.³¹³ He goes so far as to argue that “sometimes states deliberately set up ‘decoy’ international institutions to pre-empt governance.”³¹⁴

UNFF is an entirely voluntary system. Humphreys argues that it “has made minimal progress on implementation [because] the question of compliance has never arisen, since the IPF/IFF proposals do not actually *oblige* the states to do anything.”³¹⁵ Compliance is more closely related to ideas of regulatory

enforcement and the imposition of sanctions on entities that do not comply. The voluntary approach in comparison relies on mechanisms aimed at encouraging rather than enforcing adherence. The problem with the voluntary approach is that it often fails to deal with intractable, or non-compliant, entities.³¹⁶ At the same time, a relationship has been established between ‘soft’ and ‘hard’ institutional approaches to changing the behaviour of relevant target groups.³¹⁷ The ‘harder’ the institution the more likely is the chance of negotiation improving the quality of implementation and compliance. In softer institutions substantive targets may be watered down during the course of negotiations. In this case, “intrusive verification and review” is necessary to provide an option for successful implementation.³¹⁸

Interviews

Attitudes regarding the behavioural change impact of UNFF were mixed. Generally speaking, those interviewees from the third group of subjects who actively participated in UNFF were more positive in their analysis. One informant believed that one of the political achievements of the UNFF was that it had succeeded in developing a common understanding of the concept of SFM at a global scale. This common understanding had been further strengthened by the identification of the thematic areas of SFM as part of the deliberations surrounding streamlining the PfA.³¹⁹ Another felt that UNFF contributed to changing the political culture and recognition of forests domestically, particularly in terms of the impacts on NFPs, especially in federated nation-states in Europe such as Austria, Germany, Spain and Switzerland.³²⁰ Another commented that linking forest management to aid made UNFF much broader than in the past, enabling progress on a more united front possible.³²¹ Another interviewee felt that

the CPF had played a role in mitigating inter-organisational rivalry, a common problem across the UN system. There were considerable advantages in having fourteen organisations regularly meeting to exchange information and coordinate their activities, and the CPF was a valuable exception.³²²

However, praise from this sector was equivocal. Various informants commented on UNFF's inability to change behaviour. Two points to remember were that UNFF did not have any implementation mandate, nor did it play any role in changing fundamental sovereignty issues within countries.³²³ Its role was merely to facilitate implementation by governments and NGOs. If it was perceived to be weak, this was really a criticism of the people that participated and how much they tried to implement agreements nationally. The problem at the moment was that there was not enough ownership of the whole process.³²⁴ A second interviewee, also from the third group of informants, made a connection to UNFF's loss of political status and failure to achieve concrete outcomes. Because there had never been any agreement on a forest convention, politicians, political decision makers and donors had gradually shifted to those mechanisms, which were more legally binding, like the CBD and the Climate Convention. Consequently, the political momentum had shifted and did not carry the same weight as it did when it was established in 2000.³²⁵

The perspective that the UNFF has had little impact on the behaviour of governments was explored in some detail by one interviewee from the third group. The real problem with UNFF was the lack of will by governments to accept the need for a change of policy settings. The main challenge for UNFF was to gain access to heads of state and cabinets and convince them that they needed to support cross-sectoral policies for change, which incorporated natural resource

management and development issues. No amount of increased participation of Major Groups or other interests would make any difference if governments did not change their forest policy perspective.³²⁶

Those interviewees whose role in UNFF was more restricted were also more critical of the Forum's impact, and there was a degree of agreement across the business and NGO sectors that UNFF was not sufficiently changing behaviour at the governmental level. One interviewee was dismissive of Member States across the board, and blamed what they referred to as the "tired, myopic national forestry regulators" for their failure to get any change at the national level.³²⁷ According to one NGO subject, some countries wanted to write their own rules, had no intention of reporting to UNFF annually and consequently had "no political will" to change the management of their forests.³²⁸ Another implied that changing forest management was not a primary interest amongst developing countries attending UNFF. Their only real motive was to extract money from the developed countries. Once the developing countries got the money, it did not go to action on the ground, and nothing got done.³²⁹

Evaluation

UNFF's ability to change behaviour relating to forest management is affected by several factors. Analysts identify the subordination of environmental considerations to economic imperatives, resulting in an institution that creates the impression of tackling difficult issues such as deforestation, but does not in fact do anything. This is perhaps an unduly harsh criticism, but it is certainly true that the institution has no implementation mandate, and can do nothing to enforce compliance with any of its substantive outcomes, such as the PfA. Here the fundamentally 'soft' nature of UNFF has a negative impact on behaviour change.

This leaves the change impact of UNFF to be largely determined at the national level. UNFF has undoubtedly contributed to the discourse of SFM at this level, but SFM itself is a highly contested concept, largely interpreted by defined actors and interests.³³⁰ Indeed, it has been argued that SFM in the UNFF-national context relates to a highly territorial, production-oriented definition, shaped largely by sovereign nation-states.³³¹ Here, the political will -- or the lack of it -- to change behaviour on the ground is also particularly relevant. Inaction by some Member States has contributed to a loss of UNFF's international institutional status, which has in turn further eroded its ability to influence and change behaviour. Behaviour change in UNFF is **low**.

Problem Solving

Bernstein argues there are inherent conflicts at play in intergovernmental processes that explain the failure of states to develop regulatory solutions to protect forests. He equates contemporary global environmental governance to a form of neo-liberal environmentalism, which is beset by ironies and contradictions: it has opened up opportunities for democratic participation, but also reinforces the role of the market. Such conflicting norms exist uneasily together in practice and result in conflicts that prevent action to protect the environment, most notably the exercise of the precautionary principle.³³² Humphreys also recognises the constraints of both neo-liberalism and government behaviour on the effectiveness of UNFF.³³³

On a more specific level, commentators argue that part of the problem of translating SFM into effective action on a global level, is partly due to a lack of “political consensus” on who ought to be involved. Within UNFF itself, in contrast to the broader forest policy arena of which it is a part, there has been an

erosion of involvement and interest by important forest stakeholders, most notably NGOs and IPOs. This has been attributed to the inability of the IAF to link the international forest policy dialogue to forests on the ground, and consequently the actors most needed to solve forest problems have moved away from UNFF to more innovative and successful initiatives in regions and countries.³³⁴

Consequently, recent years have witnessed an increasing number of multi-stakeholder collaborations outside the UNFF that have developed working relations that have proved more effective in solving problems, such as those relating to forest law, enforcement and governance.³³⁵ These initiatives have been described as “part of a new system of governance to address illegal logging” that has arisen because UNFF has proved to be “too slow to deal with the complex issues involved.”³³⁶

UNFF has itself taken some note of these criticisms. Secretariat Director Pekka Patosaari made a number of observations on the Forum’s past, present and future effectiveness in 2005. Noting concerns about the ability of UNFF to deal effectively with multiple interests and complex problems, he defended UNFF as the best intergovernmental body to address forest policy issues. Nevertheless, change was needed to avoid UNFF becoming “a typical policy talk-shop.”³³⁷ Others are less diplomatic, and accuse UNFF of being comprised of a series of “distant global dialogues” in need of transformation “from repetitive, text-negotiating talk-shops trapped in New York and Geneva into rich, interactive, multi-stakeholder collaborations that decisively address problems, share solutions, and clearly connect policy to forests and people.”³³⁸

Interviews

Views on the problem solving capacity of UNFF were not sector-specific and were positive, equivocal and negative. Positive views were largely confined to participating delegates, but not exclusively. Looking at UNFF with ten years' hindsight, the positive view argued that the world's forests were better off than without it. A number of advances had been made, particularly in the relationship to the partnerships that had been formed between developing and developed countries. Although not a lot of concrete decisions had been made, the process had nevertheless generated more specific content than the *Statement of Forest Principles*, and had helped people understand what they needed to implement if they wanted to make progress.³³⁹ The UNFF's role as a reporting mechanism had helped to identify gaps in national forest policies, and recognise what needed to be changed, although it was only one of many catalysts.³⁴⁰ The UNFF process was more about consensus building around global priorities and issues.³⁴¹ The fact that it had built on so many discussions and was attempting harmonisation of international reporting was an achievement.³⁴² UNFF's strength lay in the fact that it was a global holistic process, not constrained to one particular aspect of forest management, such as production, or carbon issues, or biodiversity.³⁴³ Despite voicing negative opinions elsewhere in their interview, one informant agreed that UNFF along with IPF and IFF had made a useful contribution to the ongoing development of the C&I processes for SFM.³⁴⁴

Another interviewee sought to explain that not all blame could be attributed to UNFF, and that the nature of the forest problematic made a solution inherently difficult. As a single global mechanism UNFF had to accommodate all these different interests and values, which made discussions much more difficult than

even those associated with climate change. The major problems facing forests worldwide needed to be understood in cross-sectoral terms. The true economic value of forests continued to be underestimated across the forest policy community.³⁴⁵

Less apologetic, and more equivocal, views on UNFF's ability to tackle the forest problematic were also expressed. Some governments were questioning whether it was achieving anything useful. NGOs who had also interacted with the process over the years, had also stopped attending as frequently as they had, because they thought it was not achieving anything.³⁴⁶ Theoretically it was well positioned to address the forest problematic, but since the biggest problems only occurred in one or two countries it would probably be better to concentrate on striking a deal with them to solve their specific problems.³⁴⁷ The problem of global deforestation could never be solved without Brazil, and since it was not worth attending sessions without any resolution it was probably pragmatic to accept the inevitability of a non-legally binding agreement that might eventually become legally binding.³⁴⁸

Other comments were more negative. Although UNFF had a high problem solving potential because it included a wide range of foreign ministers and agricultural and environmental interests, this potential had not been realised.³⁴⁹ There had now been more than "ten years of wasteful discussion" and given that the legally binding instrument was not going ahead the negotiated outcomes were in fact little different from the original *Statement of Forest Principles* that had been adopted at Rio in 1992. During all these years and despite the money spent the world's forests had continued to be destroyed.³⁵⁰ It consisted of nothing more than endless discussions with "no impact on the ground."³⁵¹ One cause of this lack

of impact was that it had not addressed the right issues. UNFF was supposed to bring negotiators together and it had not done so. Instead, individual countries had become locked into their positions.³⁵² Also, the language that was negotiated was often so complex that outside the immediate context of the UNFF session, it tended to lose its meaning. This made it very difficult to translate -- and implement -- in a domestic context.³⁵³ It would have been a much more valuable forum if it had focussed on real action, particularly implementation, but it had not.³⁵⁴

Comparisons were inevitably drawn with other intergovernmental forest-related processes. A number of interviewees from across the sectors pointed to a number of these, which they considered to have been more effective. These included FLEG, UNFCCC, ITTO and CBD.³⁵⁵ However, one business sector perspective was that most of the interesting discussions were happening outside governmental processes. The Forest Dialogue, for example was an “an active, ongoing multi-stakeholder process” and had brought NGOs and industry together on an ongoing basis to discuss a number of difficult issues including certification, intensive forest management, and the role of commercial forests in biodiversity conservation.³⁵⁶ Two interviewees from the third group of informants stressed that UNFF’s problem solving ability should not be compared with such achievements, particularly forest certification, which operated at the other end of the spectrum.³⁵⁷

One major problem that was identified across all sectors was the lack of strong coordination between all intergovernmental forest programmes, as they tended to tackle the problem solely from their own perspective.³⁵⁸ Consequently, UNFF was failing to utilise scientific expertise. It would have a better information base to

work from and would be more efficient in tackling forest issues if this expertise could be better fed into the process.³⁵⁹ The CPF should be seen as a positive initiative, but this could not be claimed by UNFF, since it was the member groups that made it effective.³⁶⁰ Some said that the UNFF had promoted greater coherence around national forest programmes, but it had not. The level of discussion at UNFF made no real contribution to national action.³⁶¹ Things basically happened within countries at the technical level where a lot of the agencies and other organisations were filling the gap that UNFF had been unable to provide. What mattered more was ensuring that peoples' participation could be sustained, and it was the agencies on the ground that provided for this.³⁶² One business viewpoint was that UNFF could not be described as a governing system for forest management. It would be more appropriate to describe it as “a debacle”, representing nothing more than “a failed intergovernmental process.”³⁶³

Finally, one NGO interviewee cited the lack of progress on tackling deforestation and the constant disagreements amongst governments as the main reasons why most NGOs were, along with business interests, deserting the process. It had become increasingly difficult to convince colleagues to attend when they felt they could be more effective elsewhere. Rather than influencing countries to change their behaviour it was more a question of forming alliances with “democratic” countries to block bad positions. Participation in UNFF had effectively degenerated into “a kind of damage control.”³⁶⁴

Evaluation

UNFF is the latest in a series of post-Rio processes, which have attempted to grapple with the global forest problematic. There is a strong case that UNFF has provided an enhanced, more universal, intergovernmental forum for dialogue

about forest issues, but has not made any substantive new inroads in combating deforestation. Indeed, there are strong arguments to be made that other processes have been more successful in this regard, particularly in terms of addressing the problem of illegal logging. UNFF's problem solving ability is rated as **low**.

Durability

At UNFF-6 it was proposed that the Forum would meet every two years, commencing after UNFF-7 (April 2007) and the Forum's mandate was renewed for another nine years until 2015.³⁶⁵ The Forum however has had difficulties in developing creative solutions to entrenched policy positions. At UNFF-5 for example, disagreements over whether the IAF should be legally binding led to public accusations from the EU of inflexibility in the negotiating position of those in favour of the non-legally binding route. This response itself proved unhelpful, and caused negotiations to grind to a halt.³⁶⁶ On a national level non-state interests expressed a concern during the course of the MSD at UNFF-3 that government structures needed to be more flexible if they were to recognise and take account of the needs and values of forest dependent people at the national forest policy level.³⁶⁷

Interviews

Comments on the durability of UNFF were confined to the third group of informants. The fact that it had been going for as long as it had was an achievement in its own right.³⁶⁸ In terms of UNFF's adaptability, one interviewee commented that the Forum did not really generate any ideas of its own, but picked up ideas as they evolved around the world, and simply brought them to the attention of the international community. It did not generate the instruments itself but it certainly gave them a profile; the C&I processes, which were already in

existence before UNFF, were one such example. UNFF had recognised that these were good ideas, and had decided that they should be encouraged around the world's forest regions. The originality lay in determining that these processes could be organised around the thematic elements developed within UNFF itself. This approach could be interpreted as either the strength, or the weakness, of the system.³⁶⁹

One informant accused the Forum of procedural inflexibility. The MCPFE process was much more flexible. It allowed everybody to speak on equal terms, whether they were government representatives, business and industry, forest owners or environmental NGOs. Everybody had a voice and a stake.³⁷⁰ In an environment that had so many equally important members, and where each country had an individual vote regardless of forest cover or any other criterion, it was important to have a degree of negotiating flexibility. It was hard for UNFF to reach any form of conclusion when countries were inflexible in their positions.³⁷¹ NGOs had far greater opportunities.³⁷²

Evaluation

UNFF has certainly proved to be a relatively long-lived institution, and its extension until 2015 confirms this. In terms of adaptability, it has also shown that it can take on the ideas of other bodies, and adapt its own substantive outcomes such as the PfA, to reflect changing policy conditions. The institution has shown itself to be procedurally inflexible however; it is a victim of intractable negotiations. This mitigates an otherwise high performance, resulting in a rating of **medium**.

Governance Quality of UNFF

Commentary

Table 7.2 Evaluative matrix of UNFF governance quality

Principle	<u>1. Meaningful Participation</u>					
<i>Criterion</i>	1. Interest representation Highest possible score: 9 Lowest possible score: 3 Actual score: 4			2. Organisational responsibility Highest possible score: 6 Lowest possible score: 2 Actual score: 2		Sub-total (out of 15): 6
Indicator	Inclusiveness	Equality	Resources	Accountability	Transparency	
High						
Medium	2					
Low		1	1	1	1	
Principle	<u>2. Productive deliberation</u>					
<i>Criterion</i>	3. Decision making Highest possible score: 9 Lowest possible score: 3 Actual score: 3			4. Implementation Highest possible score: 9 Lowest possible score: 3 Actual score: 4		Sub-total (out of 18): 7
Indicator	Democracy	Agreement	Dispute settlement	Behavioural change	Problem solving	Durability
High						
Medium						2
Low	1	1	1	1	1	
Total (out of 33)						
						Final Score: 13

UNFF received thirteen points out of a maximum total of thirty-three. Nine indicators achieved low ratings (equality, resources, accountability, transparency, democracy, agreement, dispute settlement, behavioural change and problem solving), and two medium ratings (inclusiveness and durability). The conventional pass/fail target value of 50% was not met by any criterion, the results being 44% (interest representation and implementation) and 33% (organisational responsibility and decision making). At the principle level, in terms of meaningful

participation the aggregate result was 40% and for productive deliberation, 39% (see Table 7.2 above).

Postscript

UNFF-7 and Beyond

UNFF-7 was held on 24 February 2006 and 16-27 April 2007 in New York.³⁷³ One resolution, concerning the multi-year programme of work (MYPOW) for the period 2007-2015 was passed, and one draft resolution, concerning the non-legally binding instrument (NLBI) for all types of forests was referred to ECOSOC for adoption. Three draft decisions were also referred to the Council relating to the UNFF Bureau's term of office, the dates and venue for UNFF-8, the report of UNFF-7 and agenda for UNFF-8.³⁷⁴ MYPOW discussions centred upon operationalising UNFF's activities for UNFF-8, -9, -10 and -11. It was agreed these activities would be based around the four global objectives identified at UNFF-6, the implementation of the NLBI, and examining the IAF (to occur at UNFF-11).³⁷⁵ Various delegates expressed views that the MYPOW represented the "true value-added" agreement on UNFF-7, managing to avoid difficult questions regarding funding and the NLBI, and producing a "more ambitious" programme than that originally agreed to at UNFF-1.³⁷⁶ The success of these discussions led the writers of the *Earth Negotiations Bulletin* to conclude that the agreement "could be the start of a transition of UNFF's function from being a forum burdened with an intricate negotiating task into an institution that generates useful information and facilitates cooperation."³⁷⁷

However, whilst progress on the MYPOW was positive, other delegates felt that the NLBI was by contrast "a distracting side-show."³⁷⁸ Afraid that UNFF would collapse without agreement on the NLBI, its production in the last hours of

the meeting was an achievement in itself, even if there were deep concerns that the language in the final text weakened much of what had already been agreed to in previous documents. A number of key elements, discussed at length during the meeting, including a process to facilitate NLBI implementation, the use of time-bound and measurable targets, combating illegal logging, and a definition of SFM were all dropped. The language relating to funding of the NLBI was also vague, and left for future negotiations. The resulting somewhat “meatless” NLBI also served to reinforce the views of some countries that they should press ahead with a series of international controls outside the Forum, and an exclusive meeting took place in private to discuss just such an option.³⁷⁹

Two MSDs were held 18 and 23 April. Three themes were covered concerning Indigenous peoples and local communities, engaging the private sector, and strengthening Major Groups’ involvement.³⁸⁰ Although women and other Major Group interests were relatively active in their participation, and were able to provide input to the plenary and working groups, the general rate of NGO participation was “very low” and many previously active environmental NGOs were entirely absent.³⁸¹ Nevertheless, a number of governments expressed their support for Major Group involvement in UNFF, and called for “greater coordination, collaboration and consultation between all stakeholders through capacity building.”³⁸² A proposal for a Major Group-led initiative to be hosted by a member state of the Forum, suggested by womens’ interests, was hailed as “a good sign that stakeholder participation was evolving from dialogue to concrete action on the ground.”³⁸³

In the final analysis, according to one participant, UNFF-7 should be seen as successful. Although the NLBI was not very ambitious, it was an achievement

given the polarised views of countries, particularly as Brazil and the US played a predictably dominant role, with Brazil behaving as inflexibly as ever. In the end, the NLBI as it emerged was a hybrid of the EU, Brazilian and US models proposed at UNFF-6. The value of the Forum was that it had, in their opinion “re-established the significance of forests and forestry in the global political agenda.”³⁸⁴

Conclusions

Commentators portray the international deliberations of UNFF as taking place within a governance framework that operates on a range of levels and includes a range of participants. In the broader forest policy context, these diverse interests are now seen as being equally important to government agencies in contributing to the challenges of SFM. There is an increased role for civil society, but with this new range of actors and ideas, interactions have become increasingly complex, particularly since many forest policy issues are trans-boundary and take place in a rapidly changing context.³⁸⁵

Given these observations, it is perhaps not surprising that a feature of UNFF is the high level of attention paid to participation, both within the institution itself, and regarding forest management on the national and local levels. Indeed, the constant recognition paid to participation has an almost mantra-like quality in institutional documentation. It is frequently placed after the word stakeholder -- almost in the same way as ‘sustainable’ is before forest management. As with UNFF’s predecessors, the term clearly represents an accepted norm of global environmental and forest-related governance. And yet despite this repetition, participation is a highly contested concept within UNFF. Interest representation within UNFF is very mixed. There is certainly extensive state representation, but

while these interests are actively involved and engaged within the structures of UNFF, this is less so for the specialised agencies active in such entities as the CPF. Major Group interests are involved, but the degree of inclusion is uneven and on a structural level, non-state interests do not formally participate at all. They may make interventions in plenary meetings, yet they are excluded from text negotiation. They are only accorded the status of observers under ECOSOC rules, and when they do participate, it is on a consultative basis, even if they may speak. The status of the MSD is largely tokenistic, since it is extremely limited in terms of its political influence, especially since UNFF-5. In terms of resources, only developing countries are provided travel costs, and non-state interests must generally fund themselves, with some exceptions being made for environmental NGOs. The institutional arrangements regarding the accountability and transparency of participation within UNFF are also problematic since much of the institution's activities take place behind closed doors. This may reflect the intergovernmental nature of the Forum, but there are other examples where non-state interests can listen in on other processes, such as MCPFE.

A second striking feature of the UNFF is that despite the years of extensive deliberation there have been seemingly few substantive outcomes in comparison. UNFF is also marked by few agreements and frequent disputes. This is attributable to the institutional tradition of avoiding voting, leading to a kind of 'forced consensus' where the lowest common denominator predominates in the presence of any opposition. In this case, the effort to secure a legally binding instrument for example was caught between competing interests, and in the absence of a vote, fell victim to consensus decision making. Conversely, and surprisingly, given the wide-ranging and divergent interests clustered together, the

ability of the Major Groups to organise themselves around common points of agreement stands in some contrast.³⁸⁶ The apparent lack of any formal dispute settlement processes, other than those generated by looming deadlines and the fear of failure seem to be a feature of state negotiations in UNFF.³⁸⁷

In terms of implementation, UNFF was created for the express purpose of putting into practice the PfA first identified in the IPF/IFF processes, a purpose that it has not been particularly successful in fulfilling. On a broad level, this might be attributed to the fact that all aspects of reporting, as well as monitoring and assessing individual countries' performance are voluntary, and there are no means of sanctioning non-performance. This lack of compliance most probably relates to the absence of enforcement mechanisms, which states have avoided in favour of voluntarism, and are likely to do so into the foreseeable future now that a LBI is off the table. Here too, the voluntary nature of reporting may prove counter-productive to behaviour change.

UNFF has not been particularly successful in combating deforestation, which challenges the system's overall impact on changing behaviour. It could be argued that greater behavioural change has occurred outside UNFF, in the FLEG processes for example, where several bilateral agreements have been negotiated in an attempt to control illegal logging. Despite its procedural inflexibilities and entrenched power blocs, UNFF has nevertheless proved itself to be a relatively durable institution, and having extended its mandate until 2015, it is likely to remain on the international forest scene for a while yet. UNFF-7 succeeded in keeping the institution alive, and there were some slightly more encouraging signs in terms of state and non-state relations at this event than at other sessions. How

effective the NLBI will prove itself to be, given its rather weak nature, remains to be seen.

Endnotes

¹ Some of the materials presented in this section were derived from the author's paper "Theory and Practice of Non-state Participation in Environmental and Forest-related Decision Making", in *International Environmental Law-making and Diplomacy Review 2005* ed. Marko Berglund, (Joensuu: University of Joensuu Department of Law, 2006) pp. 155-178.

² Patricia Birnie, "The UN and the Environment" in *United Nations, Divided World: The UN's Roles in International Relations* ed. Adam Roberts and Benedict Kingsbury (Oxford: Oxford University Press, 2000), pp. 327-383 at pp. 360-368.

³ Birnie, "The UN and the Environment", pp. 360-368.

⁴ David Humphreys, "Redefining the Issues: NGO Influence on International Forest Negotiations", *Global Environmental Politics* 4 (2) (2004), pp. 51-74, at p. 60.

⁵ Brook Boyer "Multilateral Negotiation Simulation Exercise: The Sustainable Management and Conservation of Forests" in *International Environmental Law-making and Diplomacy Review 2005*, ed. Marko Berglund (Joensuu: Joensuu University Press, 2005), pp. 299-310 at p. 304.

⁶ David Humphreys, *Forest Politics: the Evolution of International Cooperation* (London: Earthscan, 1996), pp. 83-88.

⁷ Department of Economic and Social Affairs/Secretariat of the United Nations Forum on Forests, "United Nations Forum on Forests. Global Partnership: For Forests For People", Fact Sheet 1 (2004), <http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04.

⁸ Humphreys, *Forest Politics*, pp. 83-88; UN Document, "Non-Legally Binding Authoritative Statement of Principles for a Global Consensus on the Management, Conservation and Sustainable Development of All Types of Forests," A/CONF.151/26 (Vol. III).

⁹ United Nations, *Agenda 21*, p. 292. The text reads as follows:

d) Governments should promote and provide opportunities for the participation of interested parties, including local communities and indigenous people, industries, labour, non-governmental organizations and individuals, forest dwellers and women, in the development, implementation and planning of national forest policies (ibid).

¹⁰ Barbara Tavora-Jainchill, Programme Officer, United Nations Forum on Forests, United Nations Department of Economic and Social Affairs, personal communication, 06/10/05.

¹¹ Department of Economic and Social Affairs, "Frequently Asked Questions", <http://www.un.org/esa/forests/faq.html>, accessed 15/03/07.

¹² <http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04.

¹³ Ibid.

-
- ¹⁴ Proposal 133 (c) (v), “IPF Proposals for Action” <http://www.un.org/esa/forests/pdf/ipf-iff-proposalsforaction.pdf>, accessed 15/03/07 (referring to proposals for action on certification and labelling).
- ¹⁵ Humphreys, “Redefining the Issues”, p. 67.
- ¹⁶ ECOSOC Resolution 2000/35, “Report of the Fourth Session of the Intergovernmental Forum on Forests,” 18 October 2000, <http://www.un.org/documents/ecosoc/dec/2000/edec2000-inf2-add3.pdf>, accessed 15/03/05.
- ¹⁷ UN Document E/CN.18/2001/2, “Eight-Country Initiative, Shaping the Programme of Work for the United Nations Forum on Forests (UNFF)”, 7 February 2001, pp. 3-6.
- ¹⁸ Humphreys, “Redefining the Issues”, p. 68.
- ¹⁹ Radoslav S. Dimitrov, “Hostage to Norms: States, Institutions and Global Forest Politics”, *Global Environmental Politics* 5 (4) (2005), pp. 1-24 at p. 9.
- ²⁰ Humphreys, “Redefining the Issues”, pp. 66-69.
- ²¹ Barbara Tavora-Jainchill, personal communication, 06/10/05.
- ²² Barbara Tavora-Jainchill, personal communication, 06/10/05.
- ²³ UNFF Resolutions 1/3, “Initiation of the work of the United Nations Forum on Forests with the Collaborative Partnership on Forests”, 1/2, “Development of a plan of action for the implementation of the proposals for action of the Intergovernmental Panel on Forests/Intergovernmental Forum on Forests that will address financial provisions” and 1/1, “Multi-year programme of work of the United Nations Forum on Forests”, in “United Nations Forum on Forests Report on the Organizational and First Sessions”, UN Document E/2001/42/Rev.1-E/CN.18/2001/3/Rev.1, 12 and 16 February and 11-22 June 2001, pp. 5-14.
- ²⁴ UNFF Resolution 1/1, UN Document E/2001/42/Rev.1-E/CN.18/2001/3/Rev.1, paras. 27-28, p. 8.
- ²⁵ UNFF Resolution 1/1, UN Document E/2001/42/Rev.1-E/CN.18/2001/3/Rev.1, paras. 30-32, p. 8.
- ²⁶ UNFF Resolution 1/1, UN Document E/2001/42/Rev.1-E/CN.18/2001/3/Rev.1, para.33, p. 8.
- ²⁷ UN Document E/CN.18/2002/L.2, “Ministerial Declaration and Message to the World Summit on Sustainable Development, 14 March 2002” in “United Nations Forum on Forests Report on the Second Session”, UN Document E/2002/42-E/CN.18/2002/42, 22 June 2001 and 4 to 15 March 2002, pp. 3-6. The value of this declaration has been questioned by some scholars, the implication being that it was little more than tokenism. Since both UNFF and the Word Summit were open to all UN members, the ministers were effectively calling on their own governments to commit to a declaration to which they had already committed themselves as ministers (David Humphreys, *Logjam: Deforestation and the Crisis of Global Governance* (London: Earthscan, 2006), pp. 93-95).

²⁸ UNFF Resolution 2/2, “Implementation of the IPF/IFF Proposals for Action and the Plan of Action of the United Nations Forum on Forests,” UN Document E/2002/42-E/CN.18/2002/42, pp. 7-13 (measures on: combating deforestation and forest degradation; forest conservation and protection of unique types of forests and fragile ecosystems; rehabilitation and conservation strategies for countries with low forest cover; rehabilitation and restoration of degraded lands and the promotion of natural and planted forests; and concepts, terminology and definitions).

²⁹ UNFF Resolution 2/3, “Specific Criteria for the Review of the Effectiveness of the International arrangement on forests,” UN Document E/2002/42-E/CN.18/2002/42, pp.13-15.

³⁰ UN Document E/2002/42-E/CN.18/2002/42, p.15.

³¹ UN Document E/2002/42-E/CN.18/2002/42, p. 39.

³² UN Document E/2002/42-E/CN.18/2002/42, pp. 38-40.

³³ UN Document E/2002/42-E/CN.18/2002/42, p. 38.

³⁴ UNFF Resolutions 3/1, “Economic aspects of forests”, 3/2, “Forest Health and Productivity”, 3/3, “Maintaining Forest Cover to Meet Present and Future Needs”, in “United Nations Forum on Forests Report on the Third Session”, UN Document E/2003/42-E/CN.18/2003/13, 15 March 2002 and 26 May to 6 June 2003, pp. 12-17.

³⁵ Ibid.

³⁶ UNFF Resolutions 3/4, “Enhanced Cooperation and Policy and Programme Coordination”, 3/5, “Strengthening the United Nations Forest on Forests”, UN Document E/2003/42-E/CN.18/2003/13, pp. 19-22.

³⁷ Preamble to UNFF Resolution 3/2, UN Document E/2003/42-E/CN.18/2003/13, p. 23.

³⁸ UN Document E/2003/42-E/CN.18/2003/13, p. iii.

³⁹ The groups are officially listed for UNFF-3 as: women; youth and children; workers and trade unions; the scientific and technical community; indigenous people’s organizations; environmental non-governmental organizations; local authorities; small forest owners; and business and industry (UN Document E/2003/42-E/CN.18/2003/13, p. 32).

⁴⁰ UN Document E/2003/42-E/CN.18/2003/13, p. 31.

⁴¹ UN Document E/2003/42-E/CN.18/2003/13, pp. 32-36.

⁴² UN Document E/2003/42-E/CN.18/2003/13, p. 32.

⁴³ UN Document E/2003/42-E/CN.18/2003/13, p. 32.

⁴⁴ United Nations, “United Nations Forum on Forests Report on the Fourth Session”, UN Document E/2004/42 E/CN.18/2004/17 6 June 2003 and 3 to 14 May 2004.

⁴⁵ UN Document E/2004/42-E/CN.18/2004/17, p. iii (referring to UNFF Resolutions 4/1, 4/2, 4/3).

⁴⁶ UNFF Resolution 4/4, UN Document E/2004/42-E/CN.18/2004/17, “Process to Review the Effectiveness of the International Arrangement on Forests at the Fifth Session of the United Nations Forum on Forests,” paras. 1-2, p. 8.

-
- ⁴⁷ UNFF Resolution 4/4, UN Document E/2004/42-E/CN.18/2004/17, paras. 3-5, p. 9.
- ⁴⁸ Resolution 4/4, UN Document E/2004/42-E/CN.18/2004/17, para. 6, p. 9.
- ⁴⁹ Humphreys, *Logjam*, pp. 103-108.
- ⁵⁰ Ibid. A second resolution, on enhanced cooperation, also foundered as a result of the G77 seeking to keep matters adopted by the CBD out of the purview of UNFF (Humphreys, *Logjam*, p. 109).
- ⁵¹ Humphreys, *Logjam*, p. 109, pp. 102-103.
- ⁵² Humphreys, *Logjam*, p. 103; ECOSOC document E/CN.18/2004/17, Decision 4/2, p. 11.
- ⁵³ UNFF Resolution 4/3, UN Document E/2004/42-E/CN.18/2004/17, para. 1, p. 6.
- ⁵⁴ *Earth Negotiations Bulletin*, “Polite Listening: Engaging Civil Society”, 13 (116) (2004), pp. 9-10.
- ⁵⁵ *Earth Negotiations Bulletin*, “Polite Listening”, p. 11.
- ⁵⁶ UN Document E/2004/42-E/CN.18/2004/17, para. 10, p. 18.
- ⁵⁷ UN Document E/2004/42-E/CN.18/2004/17, para. 12, p. 18.
- ⁵⁸ UN Document E/2004/42-E/CN.18/2004/17, pp. 16-17. See for example:
- The reticence to share such [traditional forest-related] knowledge was attributed by some to the alarming trend of appropriation by commercial and private entities of intellectual property without the consent of, or due and equitable compensation for, traditional knowledge holders. Policies ensuring equal and fair sharing of benefits are therefore critical (para. 3-4).
- ⁵⁹ UN Document E/2004/42-E/CN.18/2004/17, para. 3, p. 16.
- ⁶⁰ UN Document E/2004/42-E/CN.18/2004/17, para. 15, p. 18.
- ⁶¹ UN Document E/2004/42-E/CN.18/2004/17, p. 19. See for example:
- They [networks and associations] provide a voice for stakeholders and a resource-efficient way of participating in decision making processes; they transmit decisions and information effectively from decision making bodies to stakeholders; they provide internal training and capacity-building in work skills and other forms of education; they provide a means of sharing resource burdens for achieving common goals; and they ensure safe and decent working conditions as well as fair labour practices. Stakeholders and some representatives of governments agreed that such association-building should be encouraged and supported at all levels (para. 17).
- ⁶² UN Document E/2004/42-E/CN.18/2004/17, paras. 26-30, pp. 20-21.
- ⁶³ Emily Caruso and Leontien Krul, “Special FERN-FPP Report: UNFF Failing its Mandate – 4th Session of the United Nations Forum on Forests” *EU Forest Watch* (June 2004), pp. 1-3 at p. 3.
- ⁶⁴ Caruso and Krul, “Special FERN-FPP Report”, p. 1.
- ⁶⁵ Ibid.
- ⁶⁶ *Earth Negotiations Bulletin*, “Quo Vadis: Contemplating the Post-UNFF Era”, 13 (116), p. 11.
- ⁶⁷ UNFF Draft Resolution, “Report of the United Nations Forum on Forests on its Fifth Session and Provisional Agenda for its Sixth Session”, UNFF Decision 5/1, “Accreditation of Intergovernmental Organizations” and UNFF Decision 5/2 “Review Process of the Fifth Session

of the United Nations Forum on Forests” in “United Nations Forum on Forests Report of the Fifth Session”, UN Document E/2005/42-E/CN.18/2005/18, 14 May 2004 and 16 to 27 May 2005, pp. 1-12.

⁶⁸ UN Document E/2005/42-E/CN.18/2005/18, pp. 1-2.

⁶⁹ UN Document E/2005/42-E/CN.18/2005/18, p. 31.

⁷⁰ *Earth Negotiations Bulletin*, “Multi-stakeholder Dialogue” 13 (133) (2005) p.3.

⁷¹ UN, “Multi-stakeholder Dialogue Note by the Secretariat. Addendum. Discussion Paper Contributed by the Business and Industry Major Group,” UN Document E/CN.18/2005/3/Add.1, 24 March 2005, pp. 1-5.

⁷² UN Document, “Multi-stakeholder Dialogue Note by the Secretariat. Addendum. Discussion Paper Contributed by the Non-governmental Organizations Major Group,” E/CN.18/2005/3/Add.4, 24 March 2005, p. 1

⁷³ Un document E/CN.18/2005/3/Add.4, p. 4.

⁷⁴ UN Document E/2005/42-E/CN.18/2005/18, p. 14. The title relates to the task outlined in ECOSOC Resolution 2000/35 Article 3 (c).

⁷⁵ Humphreys, *Logjam*, p. 109.

⁷⁶ *Earth Negotiations Bulletin*, “Report of the Ad Hoc Expert Group on Parameters” 13 (133) (2005), p. 4.

⁷⁷ Humphreys, *Logjam*, pp. 109-112.

⁷⁸ It is possible to piece together a coherent narrative from various interviewees describing the fraught nature of agreements reached within UNFF and its predecessors. At UNCED there had been a lot of pressure on countries to negotiate a forest convention, but in the year leading up to UNCED, it was clear there was no political consensus. The IPF and IFF processes were a more modest attempt to gather forest policy makers at an international level to look at forests from the holistic perspective of sustainable forest management. The original purpose of IPF was to set an intergovernmental negotiation process for a legally binding instrument for forests. That did not happen in IPF, so IFF agreed to continue the dialogue without the specific objective of a convention. However, the convention issue was raised again towards the end of IFF, but there was still no consensus. Governments were left wondering what to do since they could not continue with an ad hoc process even if it was at a high level (personal interview, 22/09/06). UNFF had evolved “from a sense of frustration” that something had to be done, and this needed to happen at the international level, if there was to be any impact nationally. The intention was to keep forests discrete from such processes as the CSD where they had limited visibility. Consequently the initial struggle had been to secure a place around the international negotiating table for forests (personal interview #1, 01/09/06).

The next fight was about what kind of instrument should be adopted (personal interview #1, 01/09/06). This proved to be a significant trigger for Brazil in particular to push for a more official

ECOSOC process. This was to ensure that if a convention ever came to a vote, it occurred within a more formal process and all UN member states would have to be involved in determining whether or not to adopt a legally binding instrument. Brazil knew that because of the “gentleman’s agreement” over voting, decisions never went to a formal vote in any UN institution except the Security Council, so there would have to be compromise and consensus personal interview, 22/09/06. As much as they could, NGOs had also opposed the development of a forest convention within UNFF and its predecessors on account of the fact that it would have higher standing than the Convention on Biological Diversity, which they considered to be superior from an environmental perspective (personal interview, 12/09/06; this slightly contradicts the analysis presented by Dimitrov, “Hostage to Norms”, p. 9). Negotiations went on until UNFF-5 and national delegations still had not been able to reach agreement on what form the international arrangement on forests should take, what the UNFF would do on an ongoing basis, nor what its mandate was or should be into the future (personal interview, 23/08/06). It had however, become increasingly clear that a legally binding instrument was no longer feasible, so it was now a question of negotiating what type of non-legally binding instrument should be adopted instead, and how strong it would be (personal interview #1, 01/09/06).

⁷⁹ <http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04, p. 1 and Humphreys, *Logjam*, p. 109.

⁸⁰ Humphreys, *Logjam*, p. 112.

⁸¹ *Earth Negotiations Bulletin*, “A Brief Analysis of UNFF-5”, 13 (133) (2005), p. 14.

⁸² Humphreys, *Logjam*, pp. 109-112.

⁸³ *Earth Negotiations Bulletin*, “Ministerial Declaration”, 13 (133) (2005), p. 1; UN Document E/2005/42-E/CN.18/2005/18, p. 11.

⁸⁴ UN Document E/2005/42-E/CN.18/2005/18, p. 17; Humphreys *Logjam*, p. 97.

⁸⁵ *Earth Negotiations Bulletin*, “Draft Decision for Adoption by ECOSOC”, 13 (133) (2005), p. 12.

⁸⁶ Leontien Krul, Tom Griffiths and Saskia Ozinga, “Live or Let Die? An Evaluation of the Fifth Session of the United Nations Forum on Forests”, *FERN Special Report*, July 2005, p. 3.

⁸⁷ *Earth Negotiations Bulletin*, “UNFF-5 Closing Statements”, 13 (133) (2005), p. 12.

⁸⁸ UN, “United Nations Forum on Forests Report of the Sixth Session”, UN Document E/2006/42-E/CN.18/2006/18, 27 May 2005 and 13-24 February 2006, pp. 1-32.

⁸⁹ (a) Enhance the contribution of forests to the achievement of internationally agreed development goals, (b) encourage and assist countries to develop and implement forest conservation and rehabilitation strategies and (c) strengthen the interaction between UNFF and relevant mechanisms, institutions, organizations and processes “with participation of major groups, as identified in Agenda 21 and relevant stakeholders to facilitate enhanced cooperation and effective implementation” (UN Document, E/2006/42-E/CN.18/2006/18 p. 1).

-
- ⁹⁰ *Earth Negotiations Bulletin*, “Summary of the Sixth Session of the United Nations Forum on Forests: 13-24 February 2006”, 13 (144) (2006), p. 1.
- ⁹¹ UN Document, E/2006/42-E/CN.18/2006/18 p. 7.
- ⁹² Perhaps indicating that: “UNFF as a purely international process has proved ineffective and that a shift in focus back to the regional level is needed” (Humphreys, *Logjam*, p. 114).
- ⁹³ UN Document, E/2006/42-E/CN.18/2006/18 p. 9
- ⁹⁴ Ibid.
- ⁹⁵ UN Document, E/2006/42-E/CN.18/2006/18 pp. 17-27.
- ⁹⁶ *Earth Negotiations Bulletin*, “Opening Statements”, 13 (144) (2006), p. 3; “The Future of the International Arrangement on Forests”, 13 (144) (2006), p. 12.
- ⁹⁷ *Earth Negotiations Bulletin* “The Future”, p.13 reads as follows:
- The process and outcome of UNFF-6 holds little to entice these groups back on board, especially when they have better luck pursuing their agenda through M[ultilateral] E[nvironmental] A[greements]s such as the Convention on Biological Diversity, and alternative avenues such as forest certification initiatives like the Forest Stewardship Council.
- ⁹⁸ UN Document, E/2006/42-E/CN.18/2006/18 pp. 3, 6 and 7.
- ⁹⁹ UN Document, E/2006/42-E/CN.18/2006/18 p. 7.
- ¹⁰⁰ *Earth Negotiations Bulletin*, “The Role of UNFF and Other Players”, 13 (150) (2006), p. 11.
- ¹⁰¹ Ibid.
- ¹⁰² Dimitrov, “Hostage to Norms”, p. 9.
- ¹⁰³ ECOSOC Resolution 2000/35, Article 4, p. 65. The text reads, in part, as follows:
- Composed of all States Members of the United Nations and States members of the specialized agencies with full and equal participation, including voting rights, with the following working modalities:
- (a) The United Nations Forum on Forests should be open to all States and operate in a transparent and participatory manner. Relevant international and regional organizations, including regional economic integration organizations, institutions and instruments, as well as major groups, as identified in the Agenda 21, should also be involved.
- ¹⁰⁴ <http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04.
- ¹⁰⁵ Barbara Tavora-Jainchill, personal communication, 06/10/05.
- ¹⁰⁶ Dimitrov, “Hostage to Norms”, p. 11.
- ¹⁰⁷ Humphreys, *Logjam*, pp. 93-95.
- ¹⁰⁸ UN, “Multi-stakeholder Dialogue on Sustainable Forest Management,” UN Document E/CN.18/2002/10, 21 December 2001, p. 1.
- ¹⁰⁹ UN, “Non-legally Binding Instrument on All Types of Forests”, UN Document A/c.2/62/L.5, 22 October 2007, Annex, section II, footnote g, para. 2 c), p. 4.
- ¹¹⁰ ECOSOC Resolution 2000/35, Article 1, p. 64.
- ¹¹¹ ECOSOC Resolution 2000/35, Article 3 (c), p. 65.

¹¹² ECOSOC Resolution 2000/35, Article 4 (g), p. 64.

¹¹³ UN, “Collaborative Partnership on Forests Framework 2003”, UN Document E/CN.18/2003/INF/1, 20 March 2003, p. 1. The CPF was the subject of ECOSOC resolution 2000/35, Article 3 (b), which was adopted at the first session of UNFF-1 (ECOSOC document E/2001/42/Rev.1, “United Nations Forum on Forests, report on the organizational and first sessions, 2001”, p. iii.

¹¹⁴ The Centre for International Forestry Research (CIFOR), Food and Agriculture Organization of the United Nations (FAO), International Tropical Timber Organization (ITTO), International Union of Forest Research Organizations (IUFRO, joined 2003), the Secretariats of the CBD, Global Environment Facility (GEF), Convention to Combat Desertification (UNCCD), UNFF, United Nations Development Programme (UNDP) and the United Nations Environment Programme (UNEP), International Centre for Research in Forestry (World Agroforestry Center - ICRAF), World Bank, and the World Conservation Union (formerly the International Union for the Conservation of Nature - IUCN) (<http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04). UN Document E/CN.18/2003/INF/1 also lists at p. 2 the Secretariat of the United Nations itself (Department of Economic and Social Affairs – UNDESA) as a member. Humphreys, *Logjam*, p. 93.

¹¹⁵ Bill Mankin, “MY POW or Yours? Choosing a Leadership Agenda for the UNFF”, unpublished paper prepared for CIFOR, January 2007, p. 15.

¹¹⁶ Humphreys, *Logjam*, p. 98.

¹¹⁷ <http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04.

¹¹⁸ Humphreys, *Logjam*, p. 98.

¹¹⁹ <http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04.

¹²⁰ ECOSOC Resolution 2000/35, Article 4 (g), p. 64

¹²¹ ECOSOC Resolution 2000/35, Article 7 (b) (10), p. 66.

¹²² FERN, “Major Group Participation in the UNFF What Does it Mean?” undated, p. 1.

¹²³ Peter Glück, Jeremy Rayner, Benjamin Cashore, Arun Agrawal, Steven Bernstein, Doris Capistrano, Karl Hogl, Bernd-Markus Liss, Connie McDermott, Jagmohan S. Maini, Tapani Oksanen, Pekka Ollonqvist, Helga Pülzl, Rwald Rametsteiner and Werner Pleschberger, “Changes in the Governance of Forest Resources”, in *Forests in the Global Balance* ed. G. Mery, R. Alfaro, M. Kaninnen, and M. Lobovikov (Helsinki: IUFRO, 2005), pp. 51-74 at pp. 57-70.

¹²⁴ ECOSOC Resolution 2000/35, Article 1 b), p. 64.

¹²⁵ Howlett and Rayner, “Globalization and Governance Capacity”, pp. 255-256.

¹²⁶ Glück et al., “Changes in the Governance of Forest Resources”, p. 58, citing Peter Glück, “National Forest Programs - Significance of a Forest Policy Framework” in *Formulation and Implementation of National Forest Programmes - EFI Proceedings No. 30, Volume I: Theoretical*

Aspects ed. Peter Glück, Gerhard Oesten, H. Schanz and K. - R. Volz, (Joensuu: European Forestry Institute, 1999), pp. 39-51.

¹²⁷ Glück et al., “Changes in the Governance of Forest Resources”, pp. 58-59.

¹²⁸ Humphreys, *Logjam*, p. 112, citing NFP Facility and PROFOR “The NFP Facility and PROFOR – Two Initiatives in Support of National Forest Policy: How Do the Two Interrelate?” (undated).

¹²⁹ UNFF Resolution 1/1, UN Document E/2001/42/Rev.1-E/CN.18/2001/3/Rev.1, para. 4, pp. 5-6; UNFF Resolution 1/2, UN Document E/2001/42/Rev.1-E/CN.18/2001/3/Rev.1, Annex, para. 15, p. 12. The 16 thematic areas are: 1) formulation and implementation of NFPs; 2) promoting public participation; 3) deforestation and forest degradation; 4) traditional forest-related knowledge; 5) forest-related scientific knowledge; 6) forest health and productivity; 7) criteria and indicators for sustainable forest management; 8) economic, social and cultural aspects of forests; 9) forest conservation and protection of unique types of forests and fragile ecosystems; 10) monitoring, assessment and reporting, and concepts, terminology and definitions; 11) rehabilitation and conservation strategies for forests with low forest cover; 12) rehabilitation and restoration of degraded forest lands, and the promotion of natural and planted forests; 13) maintaining forest cover to meet present and future needs; 14) financial resources; 15) international trade and sustainable forest management; 16) international cooperation in capacity-building, and access to and transfer of environmentally sound technologies to support sustainable forest management. The six principal functions of the IAF (following ECOSOC resolution 2000/35) are: a) implementation of the IPF/IFF proposals for action; b) forum for continued policy development and dialogue; c) cooperation and policy programme coordination; d) international cooperation; e) monitoring and assessing progress through reporting; f) strengthening political commitment (UNFF Secretariat, “Review of the Effectiveness of the International Arrangement on Forests Analytical Study”, undated, pp. 2-4).

¹³⁰ UNFF Resolution 1/1, UN Document E/2001/42/Rev.1-E/CN.18/2001/3/Rev.1, Table, “Structure of sessions of the United Nations Forum on Forests”, p. 7.

¹³¹ Personal interview, 23/08/06.

¹³² Jan Kooiman, “Societal Governance: Levels, Models, and Orders of Social-Political Interaction” in *Debating Governance: Authority, Steering and Democracy* ed. Jon Pierre (Oxford: Oxford University Press, 2000), pp. 138-166 at pp. 151-154.

¹³³ ECOSOC Resolution 2000/35, Article 2 (d), p. 64. PPPs have been identified by Kooiman as one of a range of “new patterns of interaction between government and society” (Jan Kooiman, “Social-Political Governance: Introduction” in *Modern Governance: New Government Society Interactions* ed. Jan Kooiman (London: Sage, 1993) pp. 1-8 at p. 1).

¹³⁴ UN Document E/2004/42-E/CN.18/2004/17, para. 25, p. 20.

¹³⁵ Humphreys, *Logjam*, p. 91.

-
- ¹³⁶ UN Document E/2001/42/Rev.1-E/2001/42/Rev.1, Resolution 1/1 paras 31 and 33 p. 9 (following ECOSOC Resolution 2000/35, Articles 4, (b) and (c)).
- ¹³⁷ ECOSOC Resolution 1993/215, Article 2, “Procedural Arrangements for the Commission on Sustainable Development, 12 February 1993”, pp. 97-98.
- ¹³⁸ UN Document E/CN.18/2002/10, p. 2.
- ¹³⁹ <http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04.
- ¹⁴⁰ Humphreys, *Logjam*, p. 97. It is not clear why Cuba played this role. One interviewee put it down to the fact that Cuba was a “conservative” country, and often allied itself with other conservatives, such as Saudi Arabia, to prevent NGO interventions (personal interview, 12/09/06).
- ¹⁴¹ Mankin, “MY POW or Yours”, pp. 17-18.
- ¹⁴² Mankin, “MY POW or Yours”, pp. 17-18.
- ¹⁴³ UNFF Secretariat, “Review of the Effectiveness”, p. 11 and Department of Economic and Social Affairs/UNFF Secretariat, “Implementation of Proposals for Action Agreed by Intergovernmental Panel on Forests and by Intergovernmental Forum on Forests (IPF/IFF) Action for Sustainable Forest Management”, December 2005, pp. 37-38.
- ¹⁴⁴ UNFF, “Review of the Effectiveness”, p. 104.
- ¹⁴⁵ Doris Capistrano, Markku Kanninen, Manuel Guariguata, Chris Barr, Terry Sunderland and David Raitzer, “Revitalizing the UNFF: Critical Issues and Ways Forward”, paper prepared for the Country-led Initiative on Multi-year Programme of Work of the United Nations Forum on Forests: Charting the Way Forward to 2015, Bali, Indonesia, 13-16 February 2007, p. 19.
- ¹⁴⁶ Mankin, “MY POW or Yours”, pp. 17-30.
- ¹⁴⁷ Personal interview, 23/08/06. This interviewee referred specifically the participation of youth, environmental NGOs and business interests in national delegations.
- ¹⁴⁸ Mankin, “MY POW or Yours”, pp. 17-30.
- ¹⁴⁹ Mankin, “MY POW or Yours”, p. 30.
- ¹⁵⁰ Capistrano et al., “Revitalizing the UNFF”, p. 15.
- ¹⁵¹ Capistrano et al., “Revitalizing the UNFF”, p. 9.
- ¹⁵² R. Persson, “Where is the United Nations Forum on Forests Going?” *International Forestry Review*, 7 (4) (2005), pp. 348-357 at p. 349 and *Earth Negotiations Bulletin*, “A Brief Analysis”, p. 14.
- ¹⁵³ Capistrano et al., “Revitalizing the UNFF”, p. 15.
- ¹⁵⁴ Personal interview #1, 01/09/06.
- ¹⁵⁵ Personal interview, 14/09/06.
- ¹⁵⁶ Personal interview, 24/08/06.
- ¹⁵⁷ Personal interview #2, 01/09/06. One comment from this interviewee sums up their feelings and is worth reproducing in whole:

I was always really depressed after the UNFF. You work really, really hard for two weeks, and in the end there's nothing to show for it. You're just empty. The NGOs usually walk out. That's not a nice thing to do, but it's just that you've been running after all these people, and you've tried to make your statements, or give delegates a statement in the hope that they would read it or just discuss it, but they are far too busy to listen to you, let alone read it. It's not a nice process at all (ibid).

¹⁵⁸ Personal interview, 12/09/06. They had discussed this problem with one of the business representatives, who had reported that business had decided to quit the process all together. The World Business Council for Sustainable Development, the Confederation of European Paper Industries and the American Forest and Paper Association had previously represented business, and they had been told that none of these would be participating in future.

¹⁵⁹ Personal interview, 15/09/06.

¹⁶⁰ Personal interview, 23/08/06.

¹⁶¹ Personal interview, 24/08/06.

¹⁶² Personal interview, 23/08/06. According to this interviewee, the US was reasonably inclusive, whilst the European Union was particularly strong on making sure that the NGO views were accommodated. So too were a range of other countries, including Canada and New Zealand.

¹⁶³ Personal interview #2, 04/09/06.

¹⁶⁴ Personal interview #1, 01/09/06. According to this interviewee, the problem lay with countries like China, Cuba and Brazil who would never sign up to anything that allowed NGOs at the negotiating table. They were prepared to tolerate their presence in the market, and at such venues as the MSD, but they would not tolerate their involvement in discussions during a formal session.

¹⁶⁵ Personal interview #2, 04/09/06.

¹⁶⁶ Personal interview, 23/08/06.

¹⁶⁷ Personal interview, 24/08/06.

¹⁶⁸ Personal interview #2, 01/09/06.

¹⁶⁹ Glück et al, "Changes in the Governance of Forest Resources", p. 72.

¹⁷⁰ Capistrano et al., "Revitalizing the UNFF", pp. 8-9. Mankin, also identifies equity and social justice as two of the many interrelated aspects to governance ("MY POW or Yours", p.24).

¹⁷¹ Mankin, "MY POW or Yours", pp. 9-30.

¹⁷² Capistrano et al., "Revitalizing the UNFF", full working draft, 2005, pp. 14-15. According to the *Earth Negotiations Bulletin*:

Part of this dissatisfaction with the UNFF process has been linked to the greater access NGOs and indigenous groups have been able to achieve through other intergovernmental fora, such as the Convention on Biological Diversity's Working Group on Article 8(j), where they are regarded as participants not observers. As UNFF is under the aegis of ECOSOC, many countries have been reluctant to allow full participation of civil society groups, which may be seen as precedent-setting, and this played out through objections made to their participation during UNFF-5 and beyond. However, many governments recognize the importance of these groups in keeping forests on the international agenda, and will continue to support their involvement ("A Brief Analysis", p. 15).

¹⁷³ Persson “Where is the United Nations Forum on Forests Going” pp. 351-356.

¹⁷⁴ Capistrano et al., “Revitalizing the UNFF”, reads as follows:

There is a perception amongst both government and non-government stakeholders that the politics of the UNFF’s structural design and methods of work prevent it from being agile, creative or responsive to contemporary challenges...There is also a perception, especially among civil society and regional organizations, that the UNFF’s structure and procedures unnecessarily limit stakeholder group participation and the expression of diverse perspectives...Compared to many other multi-lateral fora, including the CBD and the International tropical Timber organization (ITTO), both of which provide stakeholders with a widening range of opportunities for direct involvement, the UNFF is seen to be out-of-step with the trend towards more inclusive policy processes. As a result over the last several years, the initial interest and participation of non-governmental organizations and indigenous peoples’ organizations in the UNFF has fluctuated, then dissipated and is now marginal (pp. 14-15).

¹⁷⁵ UN Document E/2002/42-E/CN.18/2002/42, pp. 38-40.

¹⁷⁶ Personal interview, 14/09/06.

¹⁷⁷ Personal interview #2, 04/09/06.

¹⁷⁸ Personal interview, 24/08/06.

¹⁷⁹ Personal interview, 22/09/06.

¹⁸⁰ Personal interview, 23/08/06.

¹⁸¹ Personal interview #2, 04/09/06.

¹⁸² Personal interview #1, 01/09/06.

¹⁸³ Personal interview, 12/09/06.

¹⁸⁴ Personal interview, 15/09/06.

¹⁸⁵ Personal interview, 14/09/06.

¹⁸⁶ Glück et al, “Changes in the Governance of Forest Resources”, pp. 57-70.

¹⁸⁷ UN Document E/2004/42-E/CN.18/2004/17, para. 24, p. 19.

¹⁸⁸ UN Document E/2005/42-E/CN.18/2005/18, p. 31.

¹⁸⁹ UNFF Secretariat, “Review of the Effectiveness”, p. 11, and “Implementation of Proposals”, pp. 37-38.

¹⁹⁰ UN Document E/2003/42-E/CN.18/2003/13, p. 1.

¹⁹¹ *Earth Negotiations Bulletin*, “Things to Look For Today”, 13 (100) (2003), p. 2.

¹⁹² UNFF, “United Nations Forum on Forests Bureau of the Sixth Session (UNFF-6 Bureau)” minutes of the fourth meeting, 25-26 January 2006, p. 2.

¹⁹³ Un document E/2007/42, p. 17.

¹⁹⁴ ECOSOC document E/2003/42-E/CN.18/2003/13, pp. 3-12.

¹⁹⁵ Mankin, “MY POW or Yours”, p. 20. The comments read as follows:

Most forest-related issues and problems appear to require political commitment, resources, and action at the local and national, and occasionally the regional levels. Also, the best place to examine successes and failures and to learn from them is again at

the local and national levels. Finally, many require technical approaches. As a global forum with no funds or operational capabilities, the UNFF seems ill-equipped to deal effectively with many forest problems. If it wishes to make a substantive contribution, it must choose issues that can benefit most from what it can deliver: high-level visibility and political support, mobilization of resources (technical, financial, human), convening, facilitating and catalysing (ibid).

¹⁹⁶ Mankin, “MY POW or Yours”, p. 3.

¹⁹⁷ Persson, “Where is the United Nations Forum on Forests Going”, p. 349

¹⁹⁸ Mankin, “MY POW or Yours”, p. 14.

¹⁹⁹ Mankin, “MY POW or Yours”, p. 8.

²⁰⁰ Mankin, “MY POW or Yours”, p. 28.

²⁰¹ Capistrano et al., “Revitalizing the UNFF”, p. 12.

²⁰² Ibid.

²⁰³ Personal interview, 23/08/06; personal interview, 24/08/06; personal interview, 14/09/06.

²⁰⁴ Personal interview, 24/08/06. There had been attempts to hold UNFF in different locations. UNFF-2 should have been in Costa Rica, but the country had simply not been able to afford the costs, so it was held in New York (personal interview #1, 01/09/06).

²⁰⁵ Personal interview, 22/09/06.

²⁰⁶ Personal interview, 22/09/06.

²⁰⁷ Personal interview, 12/09/06.

²⁰⁸ Personal interview, 23/08/06.

²⁰⁹ Personal interview #1, 01/09/06. Another interviewee from this group expressed the view that some of the major international ENGOs operated on bigger budgets than governments, and had extensive networks of locally engaged staff at a lot of venues (personal interview,, 24/08/06).

²¹⁰ Personal interview, 12/09/06.

²¹¹ Personal interview #2, 04/09/06; personal interview, 22/09/06.

²¹² Personal interview, 22/09/06.

²¹³ Personal interview, 24/08/06. Their government had also funded the attendance of the secretariat of the Montréal Process. Another interviewee from the same group observed that some countries were open to people coming on the national delegation and there were no formal barriers, but according to one interviewee the biggest issue for their country was the cost of attending, and even industry associations had determined not to come. Other national delegations could afford to pay for NGOs and business interests to participate in their delegations (Personal interview, 23/08/06).

²¹⁴ Personal interview, 23/08/06.

²¹⁵ Personal interview, 14/09/06.

²¹⁶ Personal interview, 24/08/06.

²¹⁷ Personal interview #2, 04/09/06.

-
- ²¹⁸ Personal interview, 23/08/06.
- ²¹⁹ Personal interview, 14/09/06.
- ²²⁰ Personal interview #1, 01/09/06.
- ²²¹ Personal interview, 14/09/06.
- ²²² Personal interview, 24/08/06. The resources that the US spent in comparison to Australia or New Zealand or Japan were exponentially different, yet what all those countries put in were of another order of magnitude again compared to Vanuatu or the sovereign nations that spoke on behalf of forested regions West Papua, or Irian Jaya, for example.
- ²²³ Personal interview, 24/08/06.
- ²²⁴ Personal interview, 12/09/08.
- ²²⁵ Personal interview, 12/09/08.
- ²²⁶ Johanna Bernstein, "Sustainable Development Governance Challenges in the New Millennium", in *International Environmental Law-making and Diplomacy Review 2004* ed. Marko Berglund (Joensuu: University of Joensuu Department of Law, 2005) pp. 31-50, at p. 35, citing World Commission on the Social Dimensions of Globalization, *A Fair Globalization: Creating Opportunities for All* (ILO: Geneva, 2004).
- ²²⁷ Bernstein, "Sustainable Development Governance Challenges", p. 36, citing Kofi Annan, *We the Peoples: the Role of the United Nations in the 21st Century* (New York: United Nations, 2000).
- ²²⁸ Bernstein, "Sustainable Development Governance Challenges", p. 34.
- ²²⁹ Bernstein, "Sustainable Development Governance Challenges", p. 48.
- ²³⁰ Bernstein, "Sustainable Development Governance Challenges", p. 45.
- ²³¹ UN Document E/2002/42-E/CN.18/2002/42, p. 16.
- ²³² UN Document E/2004/42-E/CN.18/2004/17, paras. 26-30, pp. 20-21.
- ²³³ Kjaer, *Governance*, p. 35.
- ²³⁴ UN Document E/2004/42-E/CN.18/2004/17, paras. 26-30, pp. 20-21.
- ²³⁵ UN Document E/2004/42-E/CN.18/2004/17, paras 26-30, pp. 20-21.
- ²³⁶ UN Document E/2004/42-E/CN.18/2004/17, para. 25, p. 20.
- ²³⁷ Humphreys, *Logjam*, p. 98
- ²³⁸ Personal interview, 15/09/06.
- ²³⁹ Personal interview, 12/09/08.
- ²⁴⁰ Personal interview #1, 01/09/06.
- ²⁴¹ Personal interview, 24/08/06.
- ²⁴² Personal interview, 14/09/06.
- ²⁴³ Personal interview, 14/09/06.
- ²⁴⁴ UN Document E/2005/42-E/CN.18/2005/18, p. 31.

-
- ²⁴⁵ UNFF Resolution 1/1, UN Document E/2001/42/Rev.1-E/2001/42/Rev.1, paras. 31) and 33), p. 9 (relating to ECOSOC Resolution 2000/35, Articles 4, (b) and (c)).
- ²⁴⁶ UNFF Resolution 1/1, UN Document E/2001/42/Rev.1-E/CN.18/2001/3/Rev.1, para. 29, p. 8.
- ²⁴⁷ ECOSOC Resolution 2000/35, Article 1 e), p. 64
- ²⁴⁸ ECOSOC Document E/5715/Rev.2, pp. 28-32.
- ²⁴⁹ UN Document E/2004/42-E/CN.18/2004/17, pp. 20-21 (paras 26-30).
- ²⁵⁰ UNFF Resolution 2/3, UN Document E/2002/42-E/CN.18/2002/42, paras. 4 (a) (iii) and 4 (b) (ii) p. 14 (relating to ECOSOC Resolution 2000/35 Article 2 (a) and 2) (b)).
- ²⁵¹ UN Document E/2002/42-E/CN.18/2002/42, p. 16.
- ²⁵² UNFF Secretariat, “Review of the Effectiveness” 2005, p. 3.
- ²⁵³ UN Document E/2002/42-E/CN.18/2002/42, p. 16.
- ²⁵⁴ Ibid.
- ²⁵⁵ Ibid.
- ²⁵⁶ UNFF Secretariat, “Implementation of Proposals of Action”, pp. 8-10.
- ²⁵⁷ Personal interview #2, 01/09/06.
- ²⁵⁸ Personal interview, 22/09/06.
- ²⁵⁹ Personal interview, 22/09/06.
- ²⁶⁰ Personal interview #1, 01/09/06.
- ²⁶¹ UNFF secretariat was directly contacted by the researcher via email 01/11/07 requesting information, and again through its own web page contact facility 06/08/08. No response was provided on either occasion.
- ²⁶² Rules 58-71, UN Document E/5715/Rev.2, pp. 22-27.
- ²⁶³ Ibid.
- ²⁶⁴ Humphreys, *Forest Politics* pp. 157-158, following Gareth Porter and Janet Welsh Brown, *Global Environmental Politics* (Boulder Colorado: Westview Press, 1991) pp. 69-105.
- ²⁶⁵ Rule 75 (b), UN Document E/5715/Rev.2, p. 28. In this context, the document is referring to specialised agencies. This term is substituted in ECOSOC Resolution 1993/215, Article 2 (p. 97) with “non-governmental organizations.” ECOSOC Resolution 2000/35, Article 4 commits UNFF to the rules and procedures of ECOSOC and the CBD, but uses the term “major groups” (following *Agenda 21*) to refer to all non-state participants, rather than NGOs.
- ²⁶⁶ ECOSOC Document E/5715/Rev.2, pp. 28-32.
- ²⁶⁷ ECOSOC Resolution 1993/215, pp. 97-98.
- ²⁶⁸ ECOSOC Resolution 2000/35 Article 18.
- ²⁶⁹ Personal interview, 23/08/06.
- ²⁷⁰ Personal interview, 24/08/06.

-
- ²⁷¹ Personal interview #2, 04/09/06.
- ²⁷² Personal interview, 23/08/06.
- ²⁷³ Personal interview #1, 01/09/06.
- ²⁷⁴ Personal interview, 12/09/06.
- ²⁷⁵ Personal interview #2, 01/09/06.
- ²⁷⁶ Humphreys, *Logjam*, p. 98.
- ²⁷⁷ Ibid.
- ²⁷⁸ Rules 58-71, UN Document E/5715/Rev.2, pp. 22-27.
- ²⁷⁹ Rules 58-71 UN Document E/5715/Rev.2, pp. 22-27.
- ²⁸⁰ Humphreys, *Logjam*, p. 97.
- ²⁸¹ *Earth Negotiations Bulletin*, “A Brief Analysis of UNFF-6”, 13 (144) (2006), p. 11.
- ²⁸² UN Document E/2003/42-E/CN.18/2003/13, pp. 4-10.
- ²⁸³ Personal interview, 23/08/06.
- ²⁸⁴ Personal interview, 23/08/06.
- ²⁸⁵ Personal interview, 23/08/06.
- ²⁸⁶ Personal interview, 24/09/06.
- ²⁸⁷ Personal interview, 14/09/06.
- ²⁸⁸ Personal interview, 22/09/06.
- ²⁸⁹ Personal interview, 12/09/06.
- ²⁹⁰ Personal interview #2, 01/09/06.
- ²⁹¹ Personal interview, 24/09/06.
- ²⁹² Personal interview, 24/09/06.
- ²⁹³ Personal interview #1, 01/09/06.
- ²⁹⁴ Personal interview #1, 01/09/06.
- ²⁹⁵ Personal interview #1, 01/09/06. This was corroborated by another interviewee, who commented that in the EU for example, discussions could start up to six months before a session in order to develop a firm position (personal interview, 24/08/06).
- ²⁹⁶ Personal interview, 24/08/06.
- ²⁹⁷ Personal interview, 14/09/06.
- ²⁹⁸ Personal interview #1, 01/09/06.
- ²⁹⁹ Personal interview, 22/09/06. Even though they played no formal role, some interesting comments were made about major group negotiations in UNFF from across the sectors interviewed. One interviewee from group three pointed to the positive contribution that could be made by non-state interests to agreements that were made at UNFF. Like any other roundtable discussions, concessions were made on the basis of quality of argument. Non-state interests had

the potential to provide valuable information and convincing arguments, which in turn could sway individual countries to change their position, and thus circumvent deadlocks (personal interview, 14/09/06). One NGO participant also felt that a different approach to the way member states negotiated agreements delivered better resolutions (personal interview #2, 01/09/06). Echoing this comment, the business informant explained how the major groups, despite their own internal differences, had decided to group together and push for greater recognition of the multi-stakeholder dialogue. Although they had never been able to develop one joint position across all sectors trust had been established between participants (personal interview, 15/09/06).

³⁰⁰ Bernstein, “Sustainable Development Governance Challenges”, p. 34.

³⁰¹ Patrick Széll, “Introduction to the Discussion on Compliance“, *International Environmental Law-making and Diplomacy Review 2004* ed. Marko Berglund (Joensuu: University of Joensuu Department of Law, 2005) pp. 117-123, at p. 118.

³⁰² A sentiment shared by both Capistrano et al, “Revitalizing the UNFF” p. 2 and Mankin, “MY POW or Yours”, p. 8.

³⁰³ Humphreys, *Logjam*, p. 114.

³⁰⁴ Glück et al, *Forests in the Global Balance*, pp. 57-70.

³⁰⁵ Personal interview, 12/08/06.

³⁰⁶ Personal interview #2, 01/09/06.

³⁰⁷ Personal interview, 14/09/06.

³⁰⁸ Personal interview, 24/08/06. The biggest and most obvious voting bloc was the EU. The African and South American voting blocs also had quite strong voices. The G77 at times managed to maintain a voting bloc, but it was a very diverse group and had a lot of difficulty putting forward a unified voting voice. It was interesting, in their opinion, to note that the voice of a voting bloc did not always reflect the individual country position. The voting blocs often had to go through a process of considerable compromise to develop their position. It was better to understand voting blocs as representing countries with commonalities of language, interests, or geo-political location (ibid).

³⁰⁹ Personal interview, 14/09/06.

³¹⁰ Personal interview #1, 01/09/06.

³¹¹ Personal interview, 23/08/06.

³¹² Dimitrov, “Hostage to Norms”, p. 5.

³¹³ Dimitrov, “Hostage to Norms”, pp. 3-20.

³¹⁴ Dimitrov, “Hostage to Norms”, p. 20.

³¹⁵ Humphreys, *Logjam*, p. 99, emphasis in original.

³¹⁶ Peter May, “Regulation and Compliance Motivations: Examining Different Approaches”, *Public Administration Review* 34 (65) (1) (2005), pp. 31-44 at p. 32.

³¹⁷ Skjærseth et al, “Soft Law”, pp. 104-105.

³¹⁸ Skjærseth et al, “Soft Law”, p. 119.

³¹⁹ Personal interview #2, 04/09/06.

³²⁰ Personal interview #2, 04/09/06. According to this interviewee NFPs had generated common understanding on the national level. Other actors had been brought on board, including previously non-traditional actors such as WWF. WWF now took an active role in their country’s NFP, and although very critical about it, nevertheless contributed constructively to deliberations. In the long run the programme had established a more open and participatory environment for policy development in their country.

³²¹ Personal interview, 24/08/06.

³²² Personal interview #2, 04/09/06.

³²³ Personal interview, 23/08/06; Personal interview, 24/08/06.

³²⁴ Personal interview, 23/08/06.

³²⁵ Personal interview #2, 04/09/06.

³²⁶ Personal interview, 14/09/06. They provided an anecdotal example by looking at Brazil. The country position was heavily influenced by the military and as a result the country’s foreign policy was deeply influenced by sovereignty considerations. This meant it tended to reject any offer of assistance from the outside world regarding environmental policy as interference, especially concerning the Amazon region. Secondly, the government also understood the difficulties associated with managing the region, particularly keeping to any targets formulated at an international level. Whatever targets the international community set, Brazil knew it would become one of the largest contributors, as it was one of the biggest forest countries in the world. Finally, domestic pressures, particularly the fear that the local population would object to any external intervention were also hampering politicians from implementing the necessary changes. They believed their political support could be eroded on a national level if the country was perceived as being indebted to the international community.

³²⁷ Personal interview, 15/09/06.

³²⁸ Personal interview #2, 01/09/06.

³²⁹ Personal interview #2, 01/09/06.

³³⁰ This view is put forward by Humphreys, *Forest Politics*, pp. 66-68.

³³¹ This perspective is an expansion of Humphrey’s view in *Forest Politics*, and is influenced by his further studies of IFF and UNFF in *Logjam*, pp. pp. 70-72 and pp. 109-112.

³³² Steven Bernstein, “Liberal Environmentalism and Global Environmental Governance”, *Global Environmental Politics* 2 (3) (2002), pp. 1-16 at p. 12.

³³³ Humphreys, *Logjam*, p. 99.

³³⁴ Mankin, “MY POW or Yours”, pp. 1-28.

³³⁵ Mankin, “MY POW or Yours”, p. 18. A series of distinct processes from UNFF and underway since 2001, FLEG has been described as originating from joint industry and NGO concerns that the illegal timber trade depresses prices and reduces demand for legal timber. FLEG has encouraged a series of bilateral trade agreements and regional processes to address these problems: in the supply regions of Asia (2001), Africa (2003) and Europe and North Asia (2005), facilitated by the World Bank; and in the consumer countries, the EU’s Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan of 2003, which is legally binding on its 25 member states (Humphreys *Logjam* pp. 149-167).

³³⁶ Humphreys *Logjam* pp. 153 and 166.

³³⁷ UNFF Secretariat, *Implementation of Proposals of Action*, p. 4. It is worth quoting his observations in more detail:

Many negotiators and observers in particular, and the public in general, may still be asking whether the UN Forum on Forests is the best-suited body to deal with multi-faceted complex issues of forests to reconcile a multitude of interests/stakes within and outside national boundaries. I would argue that this high-level UN body may not be perfect, but it is the best among the available and feasible arrangements/instruments today. It is the most inclusive, universal and highest international body dealing with forest issues.... What we need now is to reflect and learn from past performances and then gear for reform and revitalization of our forum. It is time to strengthen and redirect the Forum to make it a more relevant and effective body, which will be more action-oriented. It also has to emerge as a trustworthy new international body that is no longer a typical policy talk-shop (ibid).

³³⁸ Mankin, “MY POW or Yours”, p. 3.

³³⁹ Personal interview, 23/08/06.

³⁴⁰ Personal interview, 24/08/06.

³⁴¹ Personal interview, 22/09/06.

³⁴² Personal interview, 24/08/06.

³⁴³ Personal interview, 23/08/06; personal interview, 24/08/06; personal interview #1, 01/09/06.

³⁴⁴ Personal interview, 15/09/06.

³⁴⁵ Personal interview #2, 04/09/06. This interviewee commented that issues confronting the provision of forest good and services were very different region-by-region, and forest-related interests were highly diverse. In the case of Brazil, there were the timber export industries to consider; in China major afforestation activities were needed to prevent further desertification; in Europe conservation and recreation values were on the rise amongst the general public; then there were the timber importers, and so on. In the case of deforestation in Brazil, the biggest driver was not the timber industry but other factors, including slash and burn agriculture. These could only be addressed via collaboration between different sectors. In such countries it was easier for policy makers to allow people to continue to destroy forests, than solve structural problems such as shifting agriculture and settlement.

³⁴⁶ Personal interview, 23/08/06.

³⁴⁷ Personal interview #2, 04/09/06.

³⁴⁸ Personal interview, 14/09/06.

³⁴⁹ Personal interview, 12/09/06.

³⁵⁰ Personal interview, 12/09/06.

³⁵¹ Personal interview #2, 01/09/06.

³⁵² Personal interview, 15/09/06.

³⁵³ Personal interview #1, 01/09/06.

³⁵⁴ Personal interview, 22/09/06.

³⁵⁵ Personal interview, 14/09/06, Personal interview, 12/09/06, Personal interview, 15/09/06, Personal interview, 22/09/06. FLEG had direct linkages to the WTO, and involved a group of countries like the European Union who were able to set the standards for a whole internal market. This gave the EU the leverage to negotiate partnership agreements with various timber regions, and indicate that if the situation did not change timber imports might be more formally regulated. Government procurement policies were another means of addressing the problem. However, their impact would be less dramatic; it was more about sending signals (personal interview, 14/09/06). In regions like Siberia, it was not possible to expect any action from the nation-state. International intervention was essential. Here, UNFF's value had been limited in this regard, while FLEG had been much better (personal interview, 12/09/06). In a somewhat backhanded compliment, the business informant argued that UNFF had at least managed, indirectly, to stimulate external discussions around forest law enforcement and governance. This was a result of the recognition on the part of the US, Europe and Japan, as well as the World Bank that it was impossible to talk about illegal logging in a governmental forum such as UNFF, which included countries that tolerated such activities (personal interview, 15/09/06).

Others made an unfavourable comparison of UNFF to the CBD. There were far less diplomats and much more forestry and environmental representatives from national ministries. Forests would be better off placed under its direction (personal interview, 12/09/06). The work programme in the CBD on forests was very good - theoretically at least (personal interview, 22/09/06). Despite UNFF's supposed emphasis on sustainable management, the CBD had been more focussed than UNFF. So too had ITTO, and even the UNFCC (personal interview, 15/09/06). FAO's forestry programme had also achieved a lot since Rio (personal interview, 22/09/06).

³⁵⁶ Personal interview, 15/09/06.

³⁵⁷ Personal interview, 23/08/06; personal interview, 24/08/06; personal interview #1, 01/09/06. The views of these informants on certification and UNFF is synthesised as follows. UNFF would never be able to determine or oversee global arrangements that were equivalent to those put in place under certification schemes. That was not its current mandate, and it was unlikely that it would be terribly efficient at it anyway. It was trying to work out instead what the actions that countries, intergovernmental bodies and other parties that currently worked in the forest sector

ought to do with the management, conservation and sustainable development of forests. These were higher-level actions that were about forming partnerships to take action on things that needed to be done. Certification was more connected to the particular individual or aggregated set of forests were managed. Certification and the UNFF were operating at two different ends of the spectrum. The only thing UNFF could possibly do might be to facilitate common negotiation over what constituted the minimum requirements for sustainable forest management. That might help markets around the world better understand what the minimum requirements for certification were. That might happen in the future, but UNFF had never had such discussion. What it had done was to recognise the merits of trying to promote certification as a useful mechanism for enhancing the kinds of management and conservation outcomes that UNFF was trying to achieve for the world's forests.

³⁵⁸ Personal interview #1, 01/09/06 and personal interview, 12/09/06. The CBD for example concentrated on the sustainable use of biological diversity; whilst in the climate change negotiations forests were only looked at as a sink. The CPF was meant to promote collaboration but could not be directed by any single institution because it was answerable to so many different agencies (personal interview #1, 01/09/06. Although important institutions such as FAO, UNEP, secretariats of UNFCCC, CBD, ITTO, IUCN had been combined together the idea that it would be the implementing body for UNFF decisions did not come true, because all the institutions had operated under their own governing bodies' mandates, and priorities, and answered to them, not UNFF (personal interview, 12/09/06).

³⁵⁹ Personal interview #2, 04/09/06.

³⁶⁰ Personal interview, 14/09/06.

³⁶¹ Personal interview, 22/09/06.

³⁶² Personal interview, 22/09/06.

³⁶³ Personal interview, 15/09/06.

³⁶⁴ Personal interview, 12/09/06.

³⁶⁵ UN Document E/2006/42-E/CN.18/2006/18, pp. 15-16.

³⁶⁶ *Earth Negotiations Bulletin*, "A Brief Analysis", p. 14.

³⁶⁷ UN Document E/2003/42-E/CN.18/2003/13, para. 14, p. 34.

³⁶⁸ Personal interview, 24/08/06.

³⁶⁹ Personal interview #1, 01/09/06.

³⁷⁰ Personal interview #2, 04/09/06.

³⁷¹ Personal interview, 24/08/06.

³⁷² Personal interview, 24/08/06. One interviewee from this group discussed NGO engagement in UNFF in terms of its consistency, flexibility and adaptability. Consistency – and reliability - of participation in UNFF were crucial factors in achieving durable outcomes. Interested parties needed to attend constantly in order to get to know the right people, and thus achieve some degree

of standing. NGOs needed to acknowledge that processes such as UNFF were like super-tankers, and took a long time to change direction. Negotiations took a very long time, and new issues needed to be explained in reasonably straightforward terms. NGO presentations tended to be overly complex, or attacked particular countries, which was not at all effective. As an example, Greenpeace's tactics during the earlier sessions of just turning up with a pamphlet and a take-it-or-leave-it attitude had not worked. Instead, when NGOs demonstrated they were able and willing to discuss and convince others through their standing as experts, people would listen (personal interview, 14/09/06).

³⁷³ UN, "United Nations Forum on Forests Report of the Seventh Session", UN Document E/2007/42 E/CN.18/2007/8, 24 February 2006 and 16-27 April 2007, p. 2.

³⁷⁴ UN Document E/2007/42-E/CN.18/2007/8, pp. iii-iv.

³⁷⁵ *Earth Negotiations Bulletin*, "Annex: MYPOW for 2007-2015", 13 (162) (2007), p. 16.

³⁷⁶ *Earth Negotiations Bulletin*, "The MPOW: Not Just Another Shopping List", 13 (162) (2007), pp. 16-18.

³⁷⁷ *Earth Negotiations Bulletin*, "The MPOW", p. 19.

³⁷⁸ *Earth Negotiations Bulletin*, "The MPOW", p. 16.

³⁷⁹ *Earth Negotiations Bulletin*, "The NLBI: Where's The Meat?" 13 (162) (2007), p. 18.

³⁸⁰ UN Document E/2007/42, pp. 23-24.

³⁸¹ Supplementary personal communication with interview subject (22/09/06), 05/05/07.

³⁸² UN Document E/2007/42, p. 43.

³⁸³ UN Document E/2007/42, p. 44.

³⁸⁴ Personal communication 05/05/07.

³⁸⁵ Capistrano et al, "Revitalizing the UNFF" p. 3.

³⁸⁶ This might be attributed to two different styles of deliberation occurring within the two groups. Identified as a phenomenon in international negotiations, they are referred to as distributive and integrative bargaining. Distributive bargaining seeks to demarcate the boundaries within which authority can be exercised, leading to outcomes motivated by self-interest. Integrative bargaining on other hand, seeks to develop opportunities for mutually beneficial relationships, resulting in absolute gains for all involved. Distributive bargaining, identified as lowering the chances of regime formation, is often characterised by disputes over what issues are at stake. Integrative bargaining is built around identifying common issues and enhances regime formation (Humphreys, *Forest Politics* pp. 159, following Oran R. Young, *International Cooperation: Building regimes for Natural Resources and the Environment* (Ithaca NY: Cornell University Press, 1989), pp. 176-8, Gail Osherenko and Oran R. Young, "The Formation of International regimes: Hypotheses and Cases", in Oran R. Young and Gail Osherenko (eds) *Polar Politics: Creating International Environmental Regimes* (Ithaca NY: Cornell University Press, 1993), p. 13,

and Gail Osherenko and Oran R. Young, *The Age of the Arctic: hot conflicts and cold realities* (Cambridge: Cambridge University Press, 1989), pp. 264 and 238).

³⁸⁷ Negotiations over the creation of UNFF, and particularly whether it should develop a forest convention, resulted in an all-night negotiating session on the last day of IFF 4 (Humphreys, *Logjam*, p. 88). The *Earth Negotiations Bulletin*, “Whither the Trees?” 13 (144) (2006), p. 11, reports that the impetus to break the impasse at UNFF-6 arose from fear that UNFF would become even more marginalised in the international forest arena than it already was.

Comparative Analysis

Introduction

Each of the institutions of forest governance selected for this study have now been analysed and the quality of their governance arrangements subjected to a detailed critical evaluation, using the qualitative indicators presented in Chapter Three. These individual case studies provide the basis for a comparative analysis of governance quality in this chapter. The chapter begins with a discussion of the performance of all four case studies at the principle and criterion levels. The criteria form the basis for determining compliance at the principle level, where a conventional pass/fail threshold of 50% has been used to determine overall performance. This is followed by a more detailed investigation at the criterion and indicator level, with the cumulative values of the relevant indicators demonstrating the performance of each criterion. Here the threshold value is also 50%. The normative threshold value at the level of the individual indicator is two, or a 'medium' rating.¹ Commentary relating to individual institutional performance is also included at this point. The chapter continues with an exploration of some of the possible reasons underlying the differences and similarities between the performances of each institution, and provides some concluding observations regarding each criterion. Following a final comparative analysis, the last section discusses the relationship between the performance of each case study and its institutional type.

General Performance at the Principle and Criterion Levels

Discussion

Table 8.1 below sets out the performance of each of the forest governance systems analysed.

Table 8.1 Comparative matrix of governance quality

<u>Principle</u>	<u>1. Meaningful Participation</u>							
<i>Criterion</i>	<i>1. Interest representation</i> Highest possible score: 9 Lowest possible score: 3				<i>2. Organisational responsibility</i> Highest possible score: 6 Lowest possible score: 2			Sub-total (out of 15)
Indicator	Inclusive-ness	Equality	Resources	Total	Accountability	Transparency	Total	
FSC	3	2	2	7	2	2	4	11
ISO	2	1	2	5	2	1	3	8
PEFC	1	1	1	3	1	1	2	5
UNFF	2	1	1	4	1	1	2	6
<u>Principle</u>	<u>2. Productive deliberation</u>							
<i>Criterion</i>	<i>3. Decision making</i> Highest possible score: 9 Lowest possible score: 3				<i>4. Implementation</i> Highest possible score: 9 Lowest possible score: 3			Sub-total (out of 18)
Indicator	Democracy	Agree-ment	Dispute settlement	Total	Behavioural change	Problem solving	Durability	Total
FSC	2	3	1	6	2	2	3	7
ISO	2	2	1	5	2	1	3	6
PEFC	1	2	1	4	2	1	2	5
UNFF	1	1	1	3	1	1	2	4
								Grand Total (out of 33)
FSC								24
ISO								19
PEFC								14
UNFF								13

As can be observed, FSC is the highest achiever of the four systems investigated, scoring highest in each of the principles and criteria. At the indicator level, it consistently ranks the highest, or joint highest, of the other systems. With a score of 11 out of 15 at the principle level for meaningful participation, FSC achieves

about 73%, exceeding the threshold value of 50%, and for productive deliberation 13 out of 18, or about 73%. With a cumulative score of 24 out of a total of 33, or about 73%, FSC's overall performance could be seen as very creditable.

ISO is the second strongest performer at both the principle and criterion levels. And at the indicator level, it consistently ranks the second highest, or equal second of the systems. With a score of eight out of 15, or about 54% it just exceeds the threshold required for meaningful participation at the principle level, and scores 11 out of 18 or about 61% for productive deliberation, also placing it second after FSC. With a total score of 19, or about 57%, ISO's performance could be described as generally satisfactory.

The performance of both PEFC and UNFF is less strong, making them the weakest performers overall. PEFC achieves 14 points overall and UNFF 13, meaning that both systems fail the threshold value of 50%. Neither PEFC nor UNFF meet the threshold for meaningful participation, with PEFC achieving five out of 15, or 33%, and UNFF scoring six out of 15, or 40%. For productive deliberation, PEFC meets the threshold value, scoring nine out of 18, or 50%. UNFF scores seven, failing to meet the threshold, with approximately 39%. Given such low scores, the quality of their governance is questionable, challenging the legitimacy of both these systems. Here the point should be reiterated that this study has argued that legitimacy is determined by the quality of the interactions between actors within the structures and processes of a given system, and the outputs and longer-term outcomes these interactions generate. In the case of both UNFF and PEFC, low scores reflect an overall deficit in the interactions between participants and therefore the extent of their collaboration, which in turn affects the impact their outputs have on achieving longer-term outcomes.²

Thematic Investigation at the Criterion and Indicator Levels

Interest Representation

Of the four case studies, both FSC and ISO exceed the threshold for interest representation with seven out of nine and five out of nine, or 77% and 56% respectively. PEFC scores lower than UNFF with three out of nine compared to four out of nine, or 33% and 44% respectively, but the differences here are less important than the fact that both of the systems clearly fail the criterion (see Table 8.2 below).

Table 8.2 Interest representation

<i>Criterion</i>	1. Interest representation Highest possible score: 9 Lowest possible score: 3			
Indicator	Inclusiveness	Equality	Resources	Total
FSC	3	2	2	7
ISO	2	1	2	5
PEFC	1	1	1	3
UNFF	2	1	1	4

Inclusiveness

FSC rated highly under the inclusiveness indicator, and both ISO and UNFF also exceeded the threshold, achieving a rating of medium. PEFC rated low. The three non-state systems use a UN-style general assembly model as their highest organ of interest representation. The FSC's chamber-based structure is the most sophisticated method of including different interests (economic, environmental and social) and although it does not include nation-states on a 'one country one vote' basis it does make specific provisions for including interests on a developed and developing country basis, via the northern and southern sub-chambers. Governmental interests are also included in the economic chamber. Non-members are also well catered for in standards setting at the international and national

levels, if less so at the level of certification assessment. ISO and PEFC do not use the chamber system and include state and non-state interests on a national basis only. ISO appears to have recognised the problem of including interests in this manner, and is beginning to explore new ways of including international NGOs. These two schemes also fall short in the extent to which local interests are included in certification assessment. UNFF, bound as it is by the UN's rules of procedure, is limited in the extent to which it can include non-governmental interests, although it has made some effort to do so. Nevertheless, despite these shortcomings ISO and UNFF, like FSC, are inclusive systems. PEFC on the other hand is structured for the express purpose of restricting which national-level interests can participate, and excluding others such as international social and environmental NGOs.

Equality

Only FSC meets the threshold for equality. FSC does not score highly, and is perhaps the victim of its own ambitions: it has set itself some lofty targets for gender, social and geo-political equality in its participatory structures at all levels, which it has not always met. It has also been historically dogged by accusations of undue NGO influence, there is some ongoing resentment amongst business interests, especially those more supportive of PEFC. Mitigating factors are the level of equality enjoyed by non-members in standards setting, and the recognition given to equality by the institution, and its efforts -- admittedly not always successful -- to achieve it. ISO, PEFC and UNFF are hamstrung by their own governance structures: since each system accords the various categories of interests that participate within them such different status, achieving equality is currently practically impossible. In UNFF national governments share a high

degree of structural equality, but this is offset by the inequality amongst other non-state interests. Here inequality is a structural aspect of interest representation, since nation-states have the only procedural authority to participate meaningfully within the system. Even the CPF, despite its delegated powers and collaborative role with other UN instruments, does not enjoy equal status with the nation-states. In both ISO and PEFC structural inequalities are chronic. In the case of ISO, this is partly a historical legacy, since it was established in an earlier era to develop industry oriented technical standards, which were largely only of concern to business. However, in view of the shift towards more social-environmental standards, the dominant role that economic interests continue to play in standards setting and executive structures is problematic. The redesign of some of the institution's governance is an acknowledgement of this problem, but is at present anecdotal and too recent to lead to any firm conclusions. To achieve any degree of equality it will be necessary to revisit the whole issue of O-, P- and L-members. In the case of PEFC inequality is also structural. At the Board level, economic interests overwhelm social-environmental interests. In the General Assembly there are no arrangements, as with FSC, to counter northern country domination.

Resources

Both FSC and ISO meet the threshold for resources; PEFC and UNFF are rated low. There are some similarities between FSC and ISO in that both institutions have specific arrangements for providing funds for participation at an international level. In the case of FSC, this is a constitutional requirement and covers any member; for ISO, provisions exist under its DEVCO programme, but only for developing country members, and not NGOs. Both have rather haphazard arrangements for supporting participation at the national level, depending on the

country and the level of resources available to the national body. Neither system provides financial resources for those participating in certification-related consultations. UNFF's funding arrangements are altogether problematic, since a number of its related organs, such as the Secretariat and CPF do not have funds in their own right, and although there are monies made available for developing countries, and some NGOs to attend, these are provided largely by Member States on a discretionary basis. In PEFC there is no funding available for international-level participation, and as with FSC and ISO provision of funds for under-resourced interests to participate at the national level is anecdotal.

Concluding Observations: Interest Representation

Inclusiveness is an important indicator as to whether interests are being represented within a given system. Excluding certain interests affects the quality of participation, since there is an insufficient diversity of stakeholders.³ This is clearly the case with PEFC, which is selective in its inclusion of interests, and fails in this regard. However, having a wide diversity of stakeholders is not an end in itself if there is a disparity in status between those within the system. Consequently, inclusiveness needs to be complemented by equality in interest representation. Earlier in this study, a link was made between the availability of resources and the capacity for various interests to participate within a given governance system. There is ample evidence in all the case studies provided that participation in environmental governance is an expensive and time-consuming business. Where there are no resources, or limited resources within a governance system to support participation, those with their own technical or economic capacities clearly have an advantage when it comes to representing their interests. The non-provision, or inadequate provision of resources by a governance system

can impact on both inclusiveness and equality. Those who do not have the capacity to represent their interests are effectively excluded. Those with comparatively fewer resources than others have less capacity to wield influence over the system than others. The interdependence of these three aspects of interest representation need to be understood, since if there are shortcomings in any one aspect, there are likely to be impacts on the criterion as a whole. Distorted representation has the potential to lead to distorted outcomes.⁴

Organisational Responsibility

FSC, ISO and UNFF meet the threshold for organisational responsibility, with the FSC scoring four out of six, or almost 67% and ISO and UNFF three out of six, or 50%. PEFC scores two out of six, or 33% (see Table 8.3 below).

Table 8.3 Organisational responsibility

<i>Criterion</i>	2. <i>Organisational responsibility</i> Highest possible score: 6 Lowest possible score: 2		
Indicator	Accountability	Transparency	Total
FSC	2	2	4
ISO	2	1	3
PEFC	1	1	2
UNFF	1	1	2

Accountability

Both FSC and ISO meet the threshold for accountability with a medium score, whilst PEFC and UNFF both fail at this indicator level. A common, and alarming theme in the three non-state certification schemes, given the importance of their role, is the accountability problem identified by both commentators and interview subjects regarding the role of certifiers. In all three systems, the relationships between the certifiers, their clients and the bodies whose standards they are implementing have been questioned in view of the potential for conflicts of

interest. Part of this disquiet may stem from the structural tension inherent in the role of the certification bodies. By being deliberately set apart and independent of the system to which they are accredited there is at best a weak link in horizontal accountability, raising questions as to whether certification bodies are really answerable to the public. In the case of FSC and ISO this is partly resolved -- but also, somewhat ironically, made all the more problematic -- by the right for certification bodies to be members of the system. This raises the second problem of vertical, i.e. internal, accountability. In the case of FSC its own accreditation body has previously sat inside the system, and some ambiguities remain even in the current (and proposed) arrangements. ISO certifiers may even play a role in, or chair, committees relating to standards they may subsequently implement. PEFC accredited certification bodies are answerable to an accreditation programme (IAF) that exists entirely external to the system, but it is almost exclusively accountable to business interests, and certainly not to the public. Accusations have also been raised regarding the undue closeness of some PEFC certifiers to national governing bodies, which they are in turn expected to audit for their eligibility for membership to the scheme.

UNFF does not face the accountability conundrum of how to deal with certification bodies, but as a system, like the other case studies investigated, it has systemic problems. Firstly, its nation-state members are only held horizontally accountable for their actions through periodic, and largely unrelated, national elections. It should also be added that in some national instances such elections are neither free nor fair. Vertically speaking, there are also internal accountability deficits, since Member States do not have to answer to other non-member, participating interests, such as NGO participants, or to other aspects of the system

(such as the CPF). The other, certification-related systems could be argued to be horizontally accountable to the wider public through a linkage back to national regulations, and compliance frameworks. Here though, there are problems with the level of stringency in such requirements, and whether the standards under which the various schemes comply are process-, rather than systems-based. Here, ISO and PEFC could be argued to be less accountable than FSC, which either meets, or exceeds national-level requirements, and is performance-based. In terms of vertical accountability, each scheme investigated has a particular set of members who sit closer to the institution itself, and consequently have the possibly to wield more influence than others. In the case of PEFC and ISO, business interests are closer to the institution than others, and through the lesser constitutional status of O- and L-members, less answerable to minority interests. In the case of FSC, its NGO origins have given certain groups a greater ‘insider’ status than others.

Transparency

FSC earned a medium rating, while ISO, PEFC and UNFF failed this indicator with low ratings. In the case of the FSC, the institution’s activities were highly transparent in terms of publicly available documentation. ISO is hampered by the restricted release of documentation, and only at certain stages, during standards setting. The public also faces considerable difficulties simply trying to locate relevant information on a plethora of websites, (such as committee minutes), and the fact that certain information (such as standards, or rules of procedure) must be purchased. In PEFC the ‘hollowed out’ nature of the institution at a global level means that much information is only available from national bodies, and critical international documents, such as General Assembly minutes are only available as

extracts upon specific request. In UNFF, considerable amounts of discussions between Member States occur behind closed doors, and non-state participants as well as the general public are effectively locked out. Publicly available reports are also worded in neutral diplomatic language to ensure the interests of all actors are reflected impartially.⁵ This makes it difficult to identify competing points of view, and general observers must therefore rely on external sources, such as the *Earth Negotiations Bulletin* to interpret events. In these three institutions, transparency in terms of quality and availability of information is problematic. Financial information was not forthcoming from ISO, PEFC or UNFF, which is a problem since running such institutions is expensive, and funds must come from somewhere such as government, business, or civil society interests, all of whom have the potential to influence institutions behind the scenes if their contributions are not made explicit.

Preliminary Conclusions: Organisational Responsibility

Accountability, often directly equated with responsibility in the literature, is particularly important given the network arrangements and long distance constituencies associated with global governance.⁶ The more distant processes of governance are from their points of accountability the more important it is that information is freely available; this is particularly the case where there are no such nation-state mechanisms for transparency such as freedom of information legislation.⁷ In view of the well-established understanding of the relationship between accountability and transparency to 'good' governance in both theory and practice, the scores here leave no room for complacency in any of the systems investigated; this is especially the case for PEFC and UNFF.

Decision Making

Two of the institutions exceed the threshold for decision making, FSC with a score of six out of nine, or almost 67%, and ISO with a score of five out of nine, or about 56%. PEFC and UNFF both fail, PEFC scoring four out of nine, or 44%, and UNFF with a score of three out of nine or 33% (see Table 8.4 below).

Table 8.4 Decision making

<i>Criterion</i>	3. Decision making Highest possible score: 9 Lowest possible score: 3			
Indicator	Democracy	Agreement	Dispute settlement	Total
FSC	2	3	1	6
ISO	2	2	1	5
PEFC	1	2	1	4
UNFF	1	1	1	3

Democracy

Both FSC and ISO meet the threshold score of two, or medium rating, whilst PEFC and UNFF both score one point each, or low, thus failing to achieve the required level. Although FSC and ISO have similar results, the reasons are quite different. In the case of FSC, it is fair to say that the institution is highly democratic, and shows a sophisticated blend of consensus and voting. The problem FSC encounters is that it has not been able to fully capture social interests and small forests within its broader decision making structures. In the case of ISO and TC207 there are differences in the manner in which democracy is exercised across the different subcommittees, and at times within each subcommittee, effectively franchising or disenfranchising certain participants depending on the democratic mode adopted. In UNFF although decision making powers amongst nation-states reside with the least, as much as with the most powerful members, other interests have no franchise at all. In PEFC power is also

not distributed evenly amongst voting member bodies; the more production forest in a given country, the more votes. There may be good reasons for this, such as avoiding the decisional gridlock that characterises UNFF, but in both PEFC and UNFF there is a clear democratic deficit.

Agreement

FSC scores the highest rating of three, while ISO and PEFC meet the threshold of medium. UNFF only scores one point, and fails to meet the threshold required to pass this indicator. FSC scores the highest rating possible because of the fact that the system as a whole is characterised by a very high level of agreement between participants over the decisions made. The key to this success is not that the FSC uses ‘consensus’ on all occasions, but that the stages leading to the making of a decision make agreement increasingly likely. In the General Assembly for example, a motion does not make it to the floor unless there is majority in favour of the motion in all chambers, or until it has been amended in such a way as to be acceptable to all chambers, whereupon it is put to the vote. At this point the qualified majority (66.6%) voting system often results in agreement by overwhelming majority. ISO has some of the same outward appearance of using consensus as FSC, but without the same clear procedures as FSC the reaching of agreements can be a confused process. Decision making switches between different modes of agreement (consensus or qualified majority, or majority) in a relatively arbitrary fashion, and consensus suffers from a lack of clarity over what “sustained opposition” means in practice. PEFC rates similarly to ISO, but is clearer as to how it reaches agreements on the international level where the standard practice is essentially majority decision making. Its problems are at the national level: there are inconsistencies between countries over the methods for

reaching agreement, and like ISO, it also suffers from a lack of clarity over what is meant by consensus within standards setting processes. UNFF on the other hand, whilst universally employing consensus (despite being procedurally bound by majority rule), has a generally low level of reaching agreement. Here enfranchised participants are pitted against each other according to which veto coalition they belong.

Dispute Settlement

It is of some concern that all of the systems investigated failed the threshold for dispute settlement. In both FSC and ISO there appears to be an institutional preference for settling disputes informally. In the case of FSC this is because formal mechanisms are complex, legalistic and burdensome on all parties involved. In ISO the right to engage in dispute settlement procedures is limited to Participant members, and unsettled matters simply pass up the chain of command until they reach the Council, which has the final say. ISO is therefore hampered by a lack of formal avenues for appeal in some specific aspects of the system (such as membership accreditation and conformity assessment). In both cases neither formal nor informal measures have assisted in settling protracted disputes. In PEFC there are no measures for dispute settlement at the international level; nationally the emphasis is more on the existence of dispute settlement mechanisms than whether they actually settle disputes, since concerns expressed by interested parties only require consideration. In the case of UNFF, as with other multilateral environmental agreements between states, there is a marked reluctance to engage in any formal dispute settlement mechanisms. Here there is a preference for voluntary approaches, but these are particularly ineffective in

addressing complaints relating to the compliance of individual states with the agreements made.

Preliminary Conclusions: Decision Making

An important aspect of the democratic processes associated with decision making in each of the case studies is the issue of consistency. This is not to say that specific democratic modes must be used uniformly across a governance system, but rather that at each stage of a given decision making process the manner in which decisions are reached is clearly defined and consistently implemented. In the case of standards development, which affects three of four case studies, inconsistency has the potential to impact on the quality decisions made, and the content of the standards themselves.⁸

In all four case studies, the observation that any consensus-seeking process requires that participants enjoy the right to be heard, and have their concerns taken into account, is particularly valid.⁹ FSC achieves both requirements. In ISO participants have the right to be heard, but the concerns of different groups are not always taken into account; this may be through a determination to resort to majority voting (whereby some members are disenfranchised), or on account of unclear rules of consensus. In PEFC not all interested parties have the right to be heard, particularly at the international level, and while the system is obliged to take the concerns of stakeholders into consideration at the local level, it is not obliged to act upon them. UNFF provides for all participating Member States to be heard, but is undermined by its various veto coalitions, which appear incapable of accommodating divergent concerns, other than through lowest common denominator decisions. The failed deliberations over a legally binding instrument serve as a case in point.

There are two recognised aspects of dispute settlement missing in each of the mechanisms employed by the systems investigated, and their absence may be significant factors in their weak performance. Importantly, given the interactive nature of modern governance, *collaborative* problem solving mechanisms between the parties in dispute are missing.¹⁰ In PEFC for example, where dispute settlement mechanisms do exist on the national level, the interaction is unidirectional (from the complainant to the national mechanism, which is not obliged to act upon the complaint). In UNFF disputes are not subjected to any formal procedural mechanism and tend to be manifested instead in the inflexible positions adopted by the various nation-state factions within the system. The second missing element in all four case studies is the presence of a third party intervenor or mediator, who is not party to the dispute.¹¹ In FSC and ISO, for example, the institution itself (the Board and Council respectively) is the final arbiter in disputes (although there are proposals to alter this). The inability of any of the systems under investigation to productively settle disputes is a matter that undermines the overall quality of deliberation in every case study.

Implementation

Table 8.5 Implementation

<i>Criterion</i>	4. Implementation Highest possible score: 9 Lowest possible score: 3			
Indicator	Behavioural change	Problem solving	Durability	Total
FSC	2	2	3	7
ISO	2	1	3	6
PEFC	2	1	2	5
UNFF	1	1	2	4

Three of the institutions investigated met the threshold for this criterion: FSC achieved seven out of nine or almost 78%; ISO six out of nine or about 67%; and

PEFC five out of nine or about 56%. With a score of four, or 44%, only UNFF failed to meet the threshold (see Table 8.5 above).

Behaviour Change

It is interesting to note that all three of the private governance systems meet the threshold for behavioural change, whereas UNFF does not. Business subscribers to each of the three programmes are required to modify their behaviour, if they have not already done so, to meet the systems' requirements, and maintain it, if they wish to retain their certification status. This is not to say that there are not substantive differences between the systems investigated -- not least of which is the discrepancy between performance- and process standards -- but all three internalise certain expected norms of behaviour, such as continuous improvement, for example (even if there is variability as to whether improvement is monitored). The extent to which participants in each of these systems have also changed behaviour as a result of mutual learning is present in each programme, although the extent and type varies. In FSC for example there has been a high degree of inter-organisational learning resulting from its multi-stakeholder structures and this is present to a more limited extent in ISO also. In both instances, although to different degrees, interaction and communication has engendered social learning. PEFC participants have opted for a narrow, technical response to changes in the forest policy environment: the system has a relatively low capacity for social learning on account of its exclusive structures; and having filtered out dissenting viewpoints, has restricted its scope for policy learning.¹² With its strong scientific orientation and intergovernmental policy focus UNFF's capacity for social learning is also restricted: governments act as gatekeepers of the policy agenda and largely serve their own political and economic agendas, whilst other interests

play a largely subordinate role.¹³ Non-state agents may be the biggest potential agents for change, but UNFF's procedures limit their role, and the institution's ability to change behaviour is limited. It has neither compliance nor sanction mechanisms and relies on a system of voluntary implementation and reporting. Here the argument that a lack of strong norms and seriousness concerning implementation may be decisive factors in a regime's effectiveness may be particularly relevant for UNFF.¹⁴

Problem Solving

FSC achieved the highest rating of medium, meeting the threshold for this indicator, but the other three systems only achieved one point, thus failing to meet the threshold. Such weak performance in all of the systems should be a cause for concern.

It is perhaps worthwhile remembering at this point that all four systems arose in the context of UNCED where sustainable development was identified as major objective of *Agenda 21*. In terms of forest issues, *Agenda 21* was clearly aimed at combating deforestation, but the means of achieving this objective came to be increasingly couched, particularly through the IPF/IFF processes, in terms of SFM. It has been pointed out however that this concept varies according to which groups of actors and interests define it.¹⁵ FSC opted to avoid the idea of SFM altogether as a normative concept in all of its documentation, and expresses its role as being "to promote the responsible management of the world's forests."¹⁶ PEFC specifically refers to its role as being "to promote sustainable forest management."¹⁷ UNFF's role is "to promote the management, conservation and sustainable development of all types of forest and strengthen long-term political commitment to this end."¹⁸ The initial impetus of the ISO 14000 Series, arising

out of Rio, was to address clean production and tackle hazardous waste. This objective was ultimately transformed into a vision and a philosophy that environmental management standards “provide an effective means to improve the environmental performance of organizations and their products, facilitate world trade and ultimately contribute to sustainable development.”¹⁹

FSC, PEFC and ISO have opted to address the ‘problem’ of deforestation through the ‘solution’ of sustainable development in different ways, and with divergent strategic objectives. In the case of FSC, the original aim of addressing deforestation by tackling the unsustainable harvesting of tropical timber has been partially obscured by a greater level of uptake in the arguably already well-managed forests of Europe, and the developed world generally. For PEFC, two underlying motives were the desire to create a market alternative to FSC in Europe (and subsequently the world), and provide a place for forest owners not initially welcome in the FSC system. It could be argued that SFM was a secondary, more public, market objective. Being non-state initiatives, both PEFC and FSC also have their own sets of external constraints, the most notable being their market-based orientation, and their inability to impose compliance on forest actors in the same way as nation-states might do. But despite being composed of nation-states with potentially more regulatory power than such non-state initiatives, UNFF’s goal to promote sustainable management has also been restricted, in its case by political and diplomatic considerations. This has resulted in a voluntary and non-legally-binding system, which has been effectively stripped of any enforcement capacity. Whether this will assist or hinder action on combating deforestation is not yet clear.

Durability

All four systems passed the threshold, FSC and ISO both rating highly, and UNFF and PEFC achieving a medium rating. In the case of FSC and ISO this score is in some part due to their relatively long existence as far as non-state market driven governance systems go (approximately a decade and a half). The FSC has built in the ability for its regional standards to be sufficiently flexible to fit into local conditions, whilst at the same time meeting international accreditation requirements. It has also demonstrated its ability to adapt to changing market conditions (most notably the arrival of competitor programmes) and more recently in ensuring that the contents of its standards are mutually consistent. Some criticisms have been levelled against the institution: it has been slow to adapt to the needs of its business constituents and its standards vary in their stringency both on a country-by-country level, and in terms of generic versus national standards. ISO reflects a similar ability to adapt to changing market conditions on an even broader level, moving in a more historical context from product- to process-based standardisation, including an increasing range of social-environmental standards beyond environmental management systems (social responsibility and greenhouse gas emissions, for example). Although there has been some institutional resistance, the development of these new standards has also demonstrated a degree of flexibility in responding to the arrival of new interests, and their needs. It too has been criticised over consistency: in the case of the 14000 Series, for the large discrepancies in environmental performance between different companies, depending on the stringency of their (internally generated) objectives.

Both UNFF and PEFC are relatively recent institutions of forest governance, and as such cannot be compared with ISO and FSC in terms of longevity. UNFF does however have a degree of institutional continuity from previous intergovernmental forest arrangements of the IPF and IFF, and a large proportion of its multi-year programme of works is built on the previous efforts of these bodies. Its lifetime has also been extended at least until 2015. It has shown a degree of adaptability by clustering the 270 PfA of its predecessors into thematic areas and specific reporting criteria. It has also demonstrated a degree of flexibility in reinterpreting its mandate: the decision, after much fruitless debate, to abandon a legally binding instrument is one such example. PEFC has demonstrated an ability to adapt to changing market conditions, but it is difficult to determine whether this is as a result of a genuine desire to respond to criticism or as a matter of pragmatic expediency. The institution has a tendency towards excessive flexibility in terms of its national standards, which can be either performance- or systems-based, and either nationally or regionally implemented. This raises questions over the consistency of its standards.

Preliminary Conclusions: Implementation

It is interesting to note that it is the three non-state systems that perform better in terms of implementation than UNFF, although, in the case of PEFC, only marginally. This may be related to the fact that these systems use third party compliance verification against a set of standards, a model of private rulemaking, which, it has been argued, exceeds the regulatory requirements of state-based approaches.²⁰ An observation might therefore be made that even within voluntary systems, a degree of compulsion is necessary to change behaviour.

In terms of their problem solving capacity, it is interesting to note that with the exception of the FSC, the low rating for ISO and PEFC would seem to imply that non-state systems are not automatically more likely to tackle problems more effectively than state-centric approaches. Firstly, it is possible that market-based instruments are the wrong tools to tackle deforestation, since it has been argued that deforestation is a consequence of current market ideology. Public goods (forests) have been converted to private assets in a global neo-liberal economy that promotes voluntary regulation, which is a policy approach that renders action ineffective.²¹ This critique is certainly relevant to the ISO 14000 Series where economic interests confined the programme to facilitating world trade by means of process- rather than performance-based environmental management standards for sustainable development, a decision that was to have a normative influence on subsequent management systems, including PEFC. Secondly, an argument has been advanced that certification is simply too narrowly focussed for tackling such a comprehensive problem as deforestation.²² FSC's decision to expand its policy parameters beyond economic considerations, and adopt performance-based standards in contrast to the other certification systems investigated may mitigate these criticisms, and provide an explanation for its more positive impact on the ground.

Nevertheless, fundamental question arises from these case studies as to whether a system that fails to tackle a given problem can be considered to have succeeded either in terms of implementation, or more broadly, as a governance system. A preliminary conclusion offered here is that this depends on the extent to which a system has passed or failed in other areas of governance; i.e. whether it has the other necessary structural and procedural components in place to improve

its performance. These components are important since, given the complexity of the issues surrounding deforestation, it should be recognised that combating such a problem is likely to take time, and the longer-term efficacy of an institution may depend on the quality of its governance arrangements overall. It should also be remembered that all non-state systems passed the implementation threshold, while UNFF did not. This may be a peculiarity of UNFF, since it has no effective implementation capacity by design. Given its massive mandate, and broad based membership, if UNFF had made strong agreements backed by powerful sanctions it might have had a more significant on the ground impact. Given that non-state regulatory mechanisms now seem an accepted complement to tackling problems when the state proves insufficient indicates there is a strong likelihood that non-state measures will continue into the future.²³ However, other intergovernmental processes are legally binding such as the EU's Forest law Enforcement, Governance and Trade Action Plan. This has arisen in the wake of UNFF as an alternative mechanism with a focus on illegal logging, and demonstrates the value of an ongoing role for governments in combating deforestation.

Comparative Institutional Performance

Summary

Looking at the strongest performer first, FSC most clearly fulfils the requirements for meaningful participation and productive deliberation at a principle level, and the interaction between structure and process appears to have been the most collaborative of all four systems in terms of outcomes, as it is the only system to meet the normative threshold for problem solving, and rating most highly overall in terms of implementation. In terms of interest representation, FSC is almost the complete reverse of PEFC: with a high degree of inclusiveness, and a satisfactory

performance in the other indicators of participation, it is well placed structurally to handle the necessary deliberations associated with multi-stakeholder decision making. Here the relationship between structure and process is the most favourably expressed, since the system also demonstrates a satisfactory level of democracy, and a high degree of agreement. The only area of concern is the FSC's problems associated with settling disputes; this has caused problems in the past, and unless adequately addressed in the systems new proposed changes, may do so in the future.

In the case of ISO, the low degree of equality and access to resources amongst participants cuts across its satisfactory level of inclusiveness, impacting on the representation of interests overall, although the institution does exceed the threshold value. A weak performance in terms of transparency also impacts on its level of institutional responsibility as a whole, although the threshold is met, but not exceeded. On a procedural level ISO's weak dispute settlement mechanisms have been the subject of ongoing and unresolved conflict between the more and less powerful interests within the system. If ISO were to be judged solely by its outputs these governance shortcomings might be overlooked in view of the existence of useable standards. However, in terms of its implementation, ISO's problem solving capacity is low. This is partly attributable to a lack of performance targets, raising the possibility that according a more equal status to those groups that advocated improving this aspect of the standard, and addressing their concerns, might lead to an overall improvement in problem solving capacity. In this instance it may be possible to see a correlation between structural and procedural shortcomings and the deficit in the problem solving aspect of implementation. Given the institution's willingness to re-evaluate the manner in

which certain sectors participate in some of its more recent standards, its current participatory shortcomings are not insurmountable, although there remains a level of hostility from national standards bodies that play a role in ISO not dissimilar to the Member States of UNFF. If these shortcomings and the failings of its current dispute settlement mechanisms are addressed, as recent reports have recommended, it is not impossible that ISO's problem solving capacity will increase over the medium term.

Looking at PEFC, the point has already been made that structurally the institution is not capable of delivering meaningful participation for anything other than a restricted set of interests. Since the system is oriented largely towards these insiders, a lack of transparency is only really an issue for outsiders, whose participation is neither encouraged nor resourced anyway. For those interests that are included in the system it is worth noting that the absence of equality, democracy, or even effective dispute mechanisms has not prevented those within the system from reaching agreements. Indeed, with such a high level of 'consensus' amongst those involved over the parameters of the system's various certification programmes, it might be argued that higher levels of such governance attributes are not necessary. This argument is reinforced by the fact that the system's implementation capacity is passable, in comparison to UNFF. On this view, increasing inclusiveness, and other such governance shortcomings, might even prove counter-productive for current participants. In effect, PEFC, despite the recommendations of the recent review, may continue in its present state in order to maintain itself. But if no change is instituted, opponents to the current paradigm will remain unable to participate meaningfully or make substantive contributions to policy and procedural decisions. Implementation will

probably continue to be relatively effective, but because it has arisen in such a constrained social-political environment, the system's problem solving capacity is likely to remain low. PEFC does not at present have the necessary governance attributes to improve its performance -- which it may yet obtain, if it fulfils the recommendations of its own governance review.

UNFF, although performing at a level similar to that of PEFC, has a slightly different set of structural and procedural problems. In reality it has an exclusive membership, since only states can join and participate as recognised actors. In addition there are shortcomings in equality, resources and transparency between those within in the system, and its procedures disenfranchise a number of participating interests. Unlike PEFC however, UNFF is characterised by a lower level of agreement. In this instance, its more universal inclusion of Member States may work against it: as a UN body with a universal country membership, it cannot simply exclude conflicting interests. Also unlike PEFC it does not exercise its permitted option of majority voting; parties are condemned to a lowest common denominator form of consensus, resulting in deliberations that are not particularly productive -- especially given the lack of dispute settlement mechanisms. Another critical difference between it and PEFC, despite similarly poor scores is its lack of implementation capacity. PEFC by contrast, although a voluntary system, does impose some obligations on subscribers. If UNFF does not improve its level of performance under its new non-legally binding format, its perception as a hollow and 'decoy' institution will be reinforced.

Typological Comparison and Preliminary Conclusions

In Chapter One, the introduction questioned the adequacy of existing global governance institutions to the task of managing forests in the current era. FSC's

success in particular, it was argued, did not arise from the institution itself, but rather, that the particular expression of democratic participation, which underpinned its system of governance, made the institution more suited to the current era of globalisation than the other institutions selected. Such a claim required some justification, and an examination of the theory and practice of governance noted firstly a shift away from 'top-down', to more participatory approaches, and a preference for deliberative, rather than aggregative, democratic modes. However, given the many different types of modern governance, it was necessary to explore contemporary governance in more detail. Three factors, or parameters, were identified as influencing the various types of contemporary global governance: authority (state versus non-state), democracy (aggregative versus deliberative) and innovation (new versus old). In their respective case study chapters, each institution was classified on the basis of these parameters, and the quality of its governance evaluated.

It has so far been left unsaid as to which of the institutions, in view of their performance, can be considered legitimate. As a result of the investigations undertaken in the case studies, it transpires that two institutions, the FSC and ISO, have exceeded the 50% pass/fail threshold overall. ISO, like FSC, also exceeds the thresholds at the principle and criterion levels for both meaningful participation and productive deliberation. To this degree, it might be said that on the basis of the quality of their governance systems, both FSC and ISO could be considered legitimate institutions, and, by implication, PEFC and UNFF illegitimate.

However, even if both ISO and FSC can be considered legitimate institutions, there is a relatively large gap in overall performance between the two. With FSC

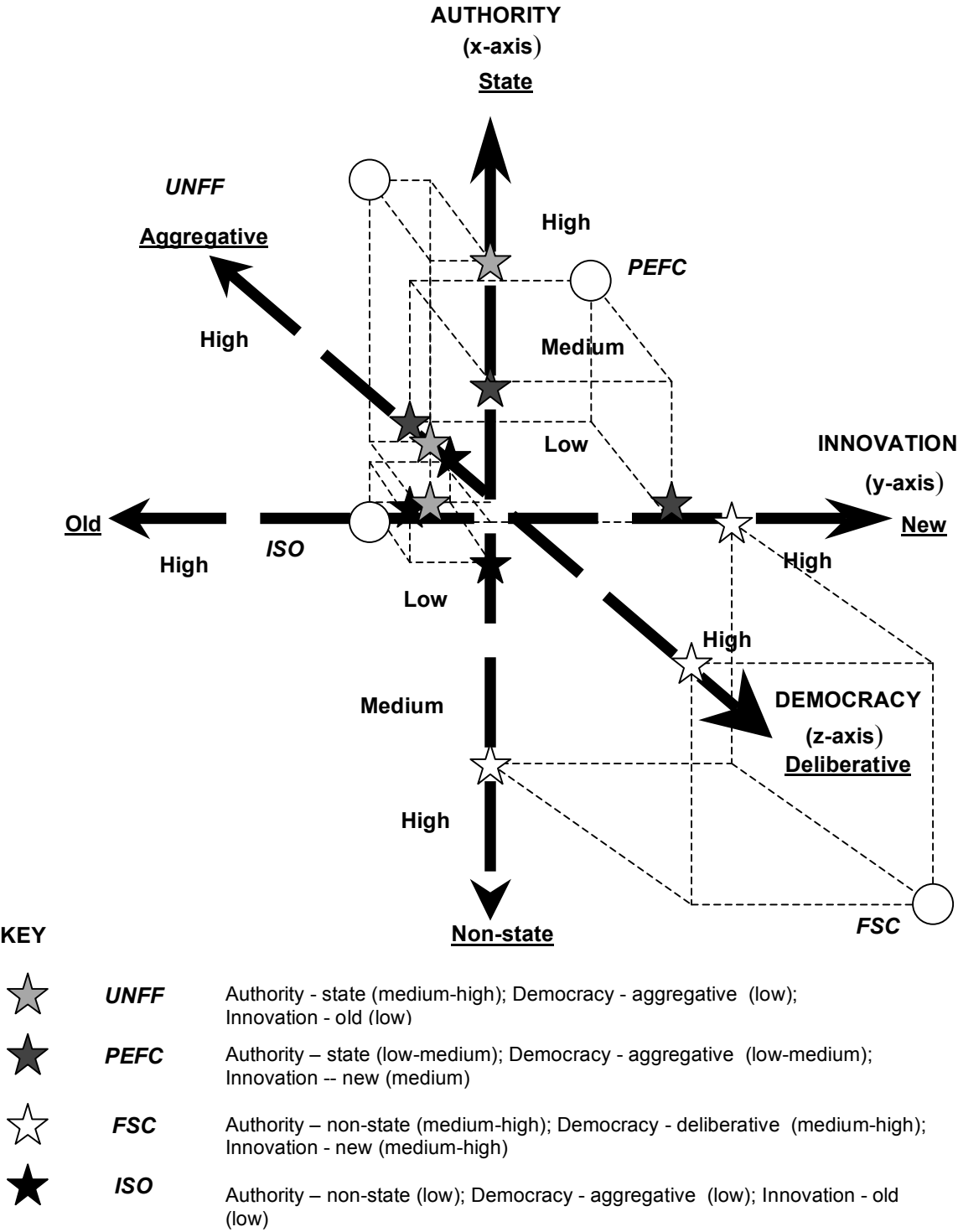
scoring 24 points out of 33, and ISO 19, there is a difference of five points, or about 15%, of the total score achievable. Between FSC and PEFC, the difference is ten points, or 30%, and between FSC and UNFF 11 points, or 33%. The intention here is therefore to look at the performance of each of the institutions in relation to the three parameters discussed above, and see if there is a relationship between institutional performance and the types of governance of which the four case studies are exemplars.

Figure 8.1 below locates each of the case studies in the model institutional classification first presented in Chapter Three. The first point to note is that both UNFF and PEFC, the weakest performers of the four case studies, occupy the portion of space that is more oriented to the state-centric end of the authority (x) axis, a situation repeated on the aggregative end of the democracy (z) axis. The closeness of their overall performance in relation to innovation notwithstanding, it is interesting that they fall on opposite sides of the zero-point for the innovation (y) axis. The similarity of their overall performance makes it difficult to draw any definite conclusions. It is however interesting to speculate as to whether PEFC's more innovative governance style has contributed to its marginal lead over UNFF. More significant however is the possibility that the two institutions' poor overall performance is linked to their state-centric, aggregative democratic orientation raises potentially profound questions regarding the exercise of authority and democratic practice.

The second point of interest is that both FSC and ISO, the higher performers, provide a mirror opposite to UNFF and PEFC, occupying the non-state end of the authority continuum. In terms of innovation, ISO sits slightly along the 'old' end

of the y-axis, while FSC is much further along the ‘new’ end of the axis. A similar situation exists on the democracy axis.

Figure 8.1 Institutional classification of governance type: UNFF, PEFC, FSC, ISO



Bearing in mind the 15% discrepancy between the two in terms of overall performance, it is worth noting that there is a greater level of divergence between

both institutions regarding their location on the axes for innovation and democracy. Here it may be possible to infer some relationship between democracy, innovation and overall performance. There may also be a link to their generally higher performance and the non-state nature of their authority.

Looking at FSC, the most highly rating governance system of the four case studies, it is clear that it sits closest to the non-state, deliberative, and 'new' ends of the authority, democracy and innovation axes of any of the case studies. It should also be noted that the FSC is the only institution clearly placed on the deliberative end of the democracy axis. This may lend some credence to the linkage made in the introduction between the 'fit' between deliberative modes of democracy and contemporary global governance, in contrast to the inherent conflict between economic, environmental, and social interests participating in governance systems that adopt a more traditional, aggregative-democratic approach.

Endnotes

¹ The approach adopted here is that outlined in Lammerts van Beuren and Blom: “A norm is the reference value of the indicator and is established for use as a rule or a basis for comparison. By comparing the norm with the actual measured value, the result demonstrates the degree of fulfilment of a criterion and of compliance with a principle” (*Hierarchical Framework*, p. 24).

² For the possible relationship between the structural and procedural inputs of a given system and the outputs and the outcomes generated, see also footnote 100 in Chapter Three. It is interesting to note that the overall score of each of the case studies points to a correlation between the scores achieved in the more input-related Criteria 1, 2 and 3 (interest representation, organisational responsibility and decision making) and their scores for Criterion 4 (implementation). FSC scores $17 + 7 = 24$; ISO $13 + 6 = 19$; PEFC $9 + 5 = 14$; UNFF $9 + 4 = 13$. Four case studies are not sufficient to draw any definitive conclusions, however, and these observations constitute mere speculation at this point.

³ This is expanded upon in more detail in Nancy Vallejo and Pierre Hauselmann, *Governance and Multi-stakeholder Processes* (Winnipeg: International Institute for Sustainable Development, 2004), pp. 5-6.

⁴ Joseph E. Stiglitz, “Globalization and Development”, in *Taming Globalisation: Frontiers of Governance* ed. David Held and Matthias Koenig-Archibugi (Cambridge: Polity Press, 2003), pp. 47-67, at p. 63.

⁵ David Humphreys, *Logjam: Deforestation and the Crisis of Global Governance* (London: Earthscan, 2006), p. 37.

⁶ Anne Mette Kjaer, *Governance* (Cambridge and Malden MA: Polity Press, 2004), p. 14.

⁷ Stiglitz, “Globalization and Development”, p. 63.

⁸ Pierre Hauselmann, *ISO inside out: ISO and environmental management*, second edition (Godalming: WWF International, 1997), p. 10.

⁹ Lawrence Susskind, *Environmental Diplomacy: Negotiating More Effective Global Agreements* (New York, Oxford: Oxford University Press, 2004), p. 52.

¹⁰ James E. Crowfoot and Julia M. Wondolleck, *Environmental Disputes: Community Involvement in Conflict Resolution* (Washington and Clovello: Island Press, 1990), p. 20.

¹¹ Crowfoot and Wondolleck, *Environmental Disputes*, p. 19.

¹² Michael Howlett and Jeremy Rayner, “Globalization and Governance Capacity: Explaining Divergence in National Forest Programs as Instances of ‘Next Generation’ Regulation in Canada and Europe”, *Governance*, 19 (2) (2006), pp. 251-275 at p. 261.

-
- ¹³ Pieter Glasbergen, "Learning to Manage the Environment" *Democracy and the Environment: Problems and Prospects*, ed. William M. Lafferty and James Meadowcroft (Cheltenham and Lyme: Edward Elgar Publishing, 1996), pp. 175-190.
- ¹⁴ Jon Birger Skjærseth, Olav Schram Stokke and Jørgen Wettestad, "Soft Law, Hard Law, and Effective Implementation", *Global Environmental Politics* 6 (3) (2006), pp. 104-120 at p. 104.
- ¹⁵ David Humphreys, *Forest Politics: The Evolution of International Cooperation* (London: Earthscan, 1996), p. 63.
- ¹⁶ FSC, "About the Forest Stewardship Council – FSC", <http://www.fsc.org/about-fsc.html>, accessed 03/11/08.
- ¹⁷ PEFC, "PEFC is the World's Largest Forest Certification Organisation", <http://www.pefc.org/internet/html/>, accessed 03/11/08.
- ¹⁸ UN, "United Nations Forum on Forests", <http://www.un.org/esa/forests/>, accessed 03/11/08.
- ¹⁹ Canadian Standards Authority, "About ISO/TC 207", <http://www.TC207.org>, accessed 10/05/07.
- ²⁰ Phillip H. Pattberg, "What Role for Private Rule-Making in Global Environmental Governance? Analysing the Forest Stewardship Council (FSC)" *International Environmental Agreements* 5 (2) (2005), pp. 175-189 at p. 182 referring the FSC in particular.
- ²¹ Humphreys, *Logjam*, p. xvii.
- ²² Humphreys, *Forest Politics*, pp. 2-15.
- ²³ Erik Hysing and Jan Olsson, "Sustainability through good Advice? Assessing the Governance of Swedish Forest Biodiversity", *Environmental Politics* 14 (4) (2005), pp. 510-526, at pp. 521-523 and Howlett and Rayner, "Globalization and Governance Capacity", pp. 251-252.

Conclusions

This study has looked in detail at the construction of global governance, making use of the environmental policy domain as a thematic area to understand its contemporary expression in finer detail. Generally, it has argued the case that participation and deliberation are integral to the structures and processes of effective and legitimate governance in contemporary global institutions. Specifically, using a detailed framework of governance-related principles, criteria and indicators for evaluating governance quality, it has investigated a range of systems, and has assessed their performance. This framework has gone beyond the relatively random selection and application of criteria used to determine governance quality elsewhere. Having applied the framework to the environmental policy area of forests and forest management, clear and specific differences between governance systems have been revealed. The ways in which these systems differ means that the institutions that have been investigated are not to be understood as similar entities: once an analysis of governance is applied consistently, as it has been done here, it is possible to see how these differences impact on the legitimacy of the institutions in question. If the institutions investigated are interested in 'best practice governance', and wish to address their legitimacy deficits, they need to take a closer look at the indicators in which they fall short. It is hoped that the study that has been undertaken here, will encourage institutional leaders, and general readers, to ask their own questions as to how democracy is being, and can be, practised to meet the needs of the third millennium.

Each of the case studies has also been further delineated as representing a specific type, and the case has been made that there is a relationship between this classification and overall performance. Beyond the specific variations noted in the systems investigated in this study, contemporary governance is expressed in a number of divergent, and at times, competing, models. A process aimed at developing national governmental responses may place an entirely different emphasis on certain governance attributes than private or civic initiatives. Whilst all will share similar components, and at times provide complementary approaches, they may vary markedly in their policy objectives. Indeed, these observations apply even within apparently similar regulatory models such as certification, and are reinforced, for example, by the rivalry between market competitors. Such rivalries point to a tension within the market-driven emphasis in contemporary governance, and especially within the discourse of sustainable development. This discourse has been adopted, and indeed, it has been argued, aggressively pursued, through a particularly dominant ideology of the contemporary era, neo-liberalism.¹ But as the introduction noted, the cornucopian model of limitless economic growth in a finite world has itself contributed to unsustainable development.

And so it is that the global environmental policy arena is built upon the conflicting values of economic rationalism on the one hand, and the need for environmental protection on the other. How to collaborate in such potentially fraught contexts is one of the most important challenges to this rapidly evolving domain of global policy making. The increasing role played by the private sector, NGOs and other non-state actors at all levels has necessitated the development of alternatives to the traditional methods utilised by nation-states. Environmental

governance therefore typifies a contemporary trend for interaction between decentralised networks made up of multiple actors.² The institutions in which these interactions occur are manifold, and even within a single policy domain there are multiple approaches to addressing common problems. Although ‘governance without government’ remains somewhat off, there is nevertheless a wide array of mechanisms of social-political decision-making, ranging from the centralised and hierarchical, to the decentralised and self-regulatory.³

Forest governance has provided an ideal laboratory in which to scrutinise “the increasing tendency for collaboration in many sectors where political and economic trade-offs also exist.”⁴ Where a particular policy arena is built around conflicting values, the role played by institutions established to address the particular issue becomes a critical one. So too does the type of governance system utilised to negotiate, make and implement decisions addressing the policy issue. Where there are value conflicts inherent in the policy area, a deliberative approach encompassing multiple sets of interested parties, as demonstrated in this study, is more effective than one that seeks to serve only single or dual interests, since this only entrenches conflict.

In the case studies investigated, it is possible to draw two significant conclusions regarding deliberation and conflict. Firstly, the four institutions place different emphases on certain sets of interests. In the case of UNFF, governments are to be identified as the single interest grouping, with the most exclusive access to decision making. PEFC clearly favours forest owners and the forest industry. These two institutions impede the participation of a range of interested parties in substantive discussions, and can be interpreted as being either single- or dual interest focussed. ISO has a largely business/technocratic emphasis, although this

is now being challenged by non-state interests. The FSC has a legacy of close relations to environmental NGOs and has had some problems with the representation of social interests, but as a system, it has a broad-based constituency. It is the one system in which genuinely ‘multi-stakeholder’ deliberation is central to decision making processes. Secondly, given the variation in the performance of the institutions investigated, it appears that the practice of democracy is not yet an optimal level to adequately account for the multiple actors involved in global forest governance. The lack of consistency across the case studies should be a source of concern as it indicates that in terms of their broader structures and processes, some of the institutions investigated are less democratic than others. This has implications for their legitimacy, and therefore, the value to some interests of participating within them at all.

How the implications of this study will be taken up by the institutions investigated are for them to decide; it is possible that they may wish to make improvements in their governance as a result. For them, and other institutions that may be interested in evaluating their own performance, determining if a ‘minimalist’ or ‘elaborate’ programme of improvement is necessary to achieve gains in performance would be a highly practical area for further research. A minimalist approach would look at making improvements at the indicator level, whilst a more elaborate programme would entail changes at the criterion and principle -- i.e. structural and procedural -- levels. For the FSC the changes required would appear to be at the indicator level. In the case of ISO, the changes required would appear to be slightly more significant, but also relate largely to the indicator level. For PEFC, which this study has presented as being relatively state-dependent despite its non-state orientation, it might be a question of increasing its

autonomy from the state, shifting its governance away from a 'state democratic' model, and making other changes to its structures and procedures.⁵ In the case of the intergovernmental programme UNFF the degree of change necessary will mean according non-state interests a much greater role, and moving beyond the rules and procedures of the UN system as they stand. This may require a degree of change at the principle and criteria levels that these latter two institutions neither can, nor will, implement. However, given the problems identified in this study with their governance models, some changes are essential -- at the indicator level at the very least.

Beyond these specific recommendations, it is difficult to draw any definitive conclusions from only four institutions about the practice of democracy in an era of globalisation, particularly if the findings from the studies are used to determine if the causal relationships between deliberation and effectiveness are to be applied elsewhere. Any future analytical studies into the quality of global environmental governance would require a greater number of case studies across a wider range of other institutional types to determine if the trends identified here are correct. Consequently, this study should be seen as developing some insights into, and contributing to a revision of, some of the theories of contemporary governance, but it is not definitive in its own right.

There are other problems associated with the methodology developed in this study. Although the analytical approach adopted has been consistent across institutions, the means by which their performance has been assessed is less so. Whilst it is true that the governance problems associated with each of the systems investigated are often unique, it may still have been useful if the hierarchical framework of assessment had been extended to a finer level of detail to include

specific verifiers for each indicator.⁶ This might have provided a uniform set of information by which each indicator could be evaluated.⁷ This would make data collection easier, and more reliant on specific information; for example, in the case of transparency, one verifier might be the public availability of certain types of information (for example board minutes). Another similar shortcoming is the selective nature of the personal interviews used. These might have been more useful if they had been larger in number, and quantitatively, rather than qualitatively, analysed.

Finally, there are also some possible problems with the calibration of the evaluative matrix. Firstly, with a simple 'low-medium-high' evaluation of governance performance, some of the ratings are almost too close to call. This might be resolved by increasing the sophistication of calibration. Secondly, at present each indicator is equally weighted within the relevant criterion. In the case of interest representation, for example, this places the same degree of significance on the provision of resources for participation as the inclusiveness of participation. In the field of forest certification, from which the use of PC&I presented here has been adapted, it has been noted the scoring and weighting of indicators and determining their relative importance is a subjective exercise.⁸ Investigating the application of PC&I in a range of other fields may be helpful in this regard.

Nevertheless, this study has made some useful contributions to understanding contemporary governance. One of the most potentially valuable of these has been the development of an analytical framework by which the different aspects of a governance system have been attached to either structure or process. This has provided a new means of examining a range of different governance types against

a common set of PC&I. It also provides an opportunity for the development of a programmatic method to evaluate performance in a relatively simple manner, and identify areas in need of improvement. Each of the case studies investigated functions on both the micro, meso and macro levels, from the local to the global. It would therefore be helpful to determine if assessment can be scaled down to encompass those aspects of global governance that occur at the national and sub-national levels. The methodology adopted in this study implies that consistently formulated hierarchies of PC&I have the potential to be applied at all spatial levels.⁹

The value of the PC&I approach to evaluation is that it also allows for the creation of standards that can serve as a reference for monitoring, assessment and reporting.¹⁰ It would be entirely possible to develop a standard out of the framework used in this study that could be applied to the practice of governance at the global, national and local levels. In view of the inconsistency of the governance arrangements utilised in each of the case studies investigated, the disagreements in the literature over the various attributes of governance, and the ‘self-certification’ currently in place, such a standard is in fact essential. As the world comes to grips with a range of global problems, and social political interactions increasingly shift to non-state democratic contexts, governance standards will become the main means by which legitimacy can be guaranteed. Such standards will make it easier for potential participants to determine whether they should engage in a given process or not. It will avoid the uncertainty that currently exists over the legitimacy of a given system, and whether to lend it credibility by participating.

ISO is now looking at social responsibility and standards setting in other similar social-political contexts, which would make it an ideal body to develop such standards. Whether national standards bodies and the business/technocratic community will initiate such a process remains to be seen. The initiative may need to come from elsewhere. Given this current gap, and the very fluid nature of authority on the global level, any body that takes up the challenge to manage the process of negotiating the development and deployment of such standards could make a significant contribution to the practice of global governance.¹¹

An obvious area for further research is whether the analytical framework developed here can be applied elsewhere. A comparative study including other forest governance programmes, such as the various intergovernmental Forest Law Enforcement and Governance processes, as well as other PEFC-affiliates such as SFI and CSA, and FSC partner LEI would be enlightening. A study of PEFC members for example would provide useful information regarding the Programme's quality and legitimacy at the national level.

A discrete, but related avenue for further research which would also be useful would be a comparative analysis as to whether market-based governance systems are more, or less, effective than other models, and which specific market models -- focussing on illegal logging versus sustainability certification for example -- constitute the better problem solving approaches. Here, the insights gained into market-driven systems might have wider relevance beyond forests. A closely related area, such as social responsibility, already demonstrating a range of certification systems and intergovernmental approaches not dissimilar from those associated with forest management, is a likely candidate for evaluation against such models and standards.¹² Fairtrade and other commodity labelling

programmes, as well as organic certification more generally, spring to mind. Research into the framework's applicability to other environmental policy domains, one of the most topical being climate change, would also be interesting. In this case, an exploration of the relationship between meaningful participation, productive deliberation and performance would be very useful. So too would an evaluation of the quality of the governance of the rapidly expanding market-based systems for emissions trading. In this area, the need for standards of governance quality is critical.¹³

In addition to deliberation, the research in this study has also implied that there is a higher level of performance if an institution is non-state-centric, and adopts an innovative governance model. This hypothesis might be tested in more detail by treating each these factors as dependent variables in a study of the performance of a range of non-state-centric models. One institution that could be included in such a study is the Marine Stewardship Council (MSC): it contains a number of features similar to the FSC, but is sufficiently different in terms of structure and process to provide some valuable insights into which variables make the greatest contribution to effectiveness.¹⁴

Given that forest governance has been identified as being indicative of broader political and economic trends, and of social-political interaction more generally, it is also possible that the analytical framework presented here may be applicable beyond the environmental arena. A question that would be worthy of investigation is whether it can be applied to economic institutions such as the World Bank, the World Trade Organisation and the International Monetary Fund. In view of the current economic crisis, an institutional analysis focussing on governance performance across the global financial sector would assist greatly in the current

efforts for regulatory reform. Whether there are casual links between market failure and governance failure, and whether a deliberative approach contributes to a more effective institution than one dominated by single or dual interests, would be extremely valuable hypotheses to test.¹⁵

Endnotes

¹ See David Humphreys, *Logjam: Deforestation and the Crisis of Global Governance* (London: Earthscan, 2006), pp. 11-14.

² Peter Haas, “UN Conferences and Constructivist Governance of the Environment”, *Global Governance* 8: 1 (2002), pp. 73-91, at p. 74, Glück et al., “Changes in the Governance of Forest Resources” p. 51.

³ Robert Falkner, “Private Environmental Governance and International Relations: Exploring the links”, *Global Environmental Politics* 3 (2) (2003), pp. 72-87, at p. 72.

⁴ Christine Overdevest, “Codes of Conduct and Standard Setting in the Forest Sector Constructing Markets for Democracy?” *Relations Industrielles/Industrial Relations* 59 (1) (2004) pp. 172-197, at p. 192.

⁵ See also Benjamin Cashore, Graeme Auld and Deanna Newsom, *Governing Through Markets: Forest Certification and the Emergence of Non-State Authority* (New Haven and London: Yale University Press, 2004), pp. 27-29. A further area for research in regard to their theories regarding non-state market driven (NSMD) governance might be to look more closely into the extent to which systems derive their authority from the state by extension, or elsewhere. Does PEFC, which has developed much of its schematic content from the various intergovernmental C&I processes for forest management, and which sits so close to government in some countries, really compare with FSC as a non-state model? How might the concept of NSMD governance be refined to take the large discrepancies between different systems into account?

⁶ “A verifier is the source of information for the indicator, or for the reference value of the indicator” (Erik M. Lammerts van Beuren and Esther M. Blom, *Hierarchical Framework For The Formulation Of Sustainable Forest Management Standards* (Leiden: The Tropenbos Foundation, 1997) p. 35).

⁷ Lammerts van Beuren and Blom, *Hierarchical Framework* p. 25.

⁸ Lammerts van Beuren and Blom, *Hierarchical Framework* p. 29.

⁹ Lammerts van Beuren and Blom, *Hierarchical Framework*, p. 7. It is noted however that: “specific spatial levels may require additional principles particularly relevant to that level” (ibid).

¹⁰ Lammerts van Beuren and Blom, *Hierarchical Framework*, p. 34.

¹¹ An alternative, and equally suited body might be the One World Trust <http://www.oneworldtrust.org>, whose global accountability framework formed the basis of the PEFC governance review.

¹² In this regard such programmes as ISO's own 26000 series, the Fair Trade Labelling Organizations' certification standards, and the UN's Global Compact would provide a similar mix of state and non-state governance systems as those investigated in this study.

¹³ In 2000, the author conducted a study of forestry companies in the state of Tasmania, Australia that were clearing old growth forests and rainforests for the establishment of plantations that were being promoted for their carbon sequestration (fset) value (Tim Cadman, *The Clearcut Case: How the Kyoto protocol Could Become a Driver for Deforestation* (Amsterdam: Greenpeace International, undated).

¹⁴ The MSC has a structure somewhere between FSC and ISO: founded exclusively by WWF in partnership with Unilever, the Main Board of Trustees of fifteen is the supreme authority, under which sits a Technical Advisory Board, which in turn is guided by a Stakeholder Council of 50 members (Nancy Vallejo and Pierre Hauselmann, *Governance and Multi-stakeholder Processes* (Winnipeg: International Institute for Sustainable Development, 2004), p. 11). Characterised as being similarly inclusive to the FSC in its consultation processes, it sits closer to governments than FSC with its P&C based on a Code of Conduct developed by FAO, but governments – perhaps in response to non-state encroachment (and mirroring some of the certification wars between FSC and PEFC) – have responded by developing their own guidelines for fish and fisheries eco-labelling (Lars H. Gulbrandsen, “Mark of Sustainability? Challenges for Fishery and Forestry Eco-labeling”, *Environment* 47 (5) (2005), p. 13). A note of caution has been raised that “the selection of cases for study on the basis of the outcomes on the dependent variable biases conclusions” (Barabara Geddes, “How the Cases You Choose Affect the Answers You Get: Selection Bias in Comparative Politics” *Political Analysis* 2 (1990) 131-150).

¹⁵ This is hinted at in some of the literature examined for this study. Kjaer makes a link between economic governance and effective cooperation (Anne Mette Kjaer, *Governance* (Cambridge and Malden MA: Polity Press, 2004), p. 132). She equates effectiveness to “strategies relying on upon dialogue, consensus seeking and inclusion, rather than coercion, raw power and exclusion” (*Governance*, p. 147). Gamble recognises that diverse actors now shape how the global economy is governed and that there are multiple forms of economic governance consisting of “different combinations of markets, hierarchies, networks and communities” (Andrew Gamble, “Economic Governance” in *Debating Governance: Authority, Steering and Democracy* ed. Jon Pierre (Oxford: Oxford University Press, 2000), pp. 110-137 at p. 134). In the same volume, Jon Pierre views some of the causes and consequences of governance failure and economic performance as stemming from poor institutional frameworks (Jon Pierre, “Conclusions: Governance Beyond State Strength”, in *Debating Governance* pp. 241-246 at p. 245, following D. C. North, *Institutions, Institutional Change and Economic Performance* (Cambridge and New York: Cambridge University press, 1990)).

Bibliography

Accreditation Services International, "Procedures for FSC Accreditation of Certification Bodies", ASI-PRO-20-110 Version 1.0, September 2006.

Acuña, Eliana, The ECL Space Project. Learning from Social and Environmental Schemes for the ECL Space: ISO 14401 Case Study. Pully: Pi Environmental Consulting, 2004.

Albertina, Skaidrite, "Forest Owners Start to Sell Products from Certified Forests in Latvia" *PEFCC Newsletter* 10 (March 2002), p. 4.

ANEC/ECOS, "Joint ANEC/ECOS Comments on the ISO 14000 Series Review", ANEC-ENV-G-030final (October, 2007).

ANEC/EEB, "ANEC/EEB Position Paper on Environmental Management System Standards", (February, 2003).

Altoft, Katie, "Canada - CSA", *PEFCC Newsletter* 12 (September, 2002), p.8.

Anonymous, *Certification in Indonesia*. London: Down to Earth and The Rainforest Foundation, 2001.

____ "Pan European Forest Certification", memorandum, 2/9/199, http://www.faf.de/paneuro_e.htm accessed 20/09/1999.

____ "Stakeholder Involvement Efforts at the National Level: Summary and Analysis of the NSB Survey Results" (undated).

Arancibia, Daniel, *Forest Stewardship Standards in FSC System*. Pully: Pi Environmental Consulting and WWF, 2003.

Arnstein, Sherry, "A Ladder of Citizen Participation", *Journal, American Institute of Planners* 35(4) (1969), pp. 216-224.

Articles and News, "3rd Meeting of ISO/TC 207 in Oslo, Norway", (August, 1995).

____ "Communiqué from the 7th Annual TC 207 Plenary", ISO/TC 207 N357 1999-06-06 (July, 1999).

____ "Environment – ISO/TC 207 Considers Industry's Needs", (August, 1995).

____ "Summary Report – 2nd Meeting of ISO/TC 207 in Australia" (December, 1994).

Arts, Bas, "Non-state Actors in Global Governance: New Arrangements Beyond the State", in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi, and Michael Zürn. Basingstoke and London: Palgrave Macmillan, 2006, pp. 177-200.

Azmat, Fara, "Good Governance and Market-based Reforms: a Study of Bangladesh", *International Review of Administrative Sciences* 71, (4) (2005), pp. 625-638.

Bäckstrand, Karin, "Multi-Stakeholder Partnerships for Sustainable Development: Rethinking Legitimacy, Accountability and Effectiveness", *European Environment* 16 (2006), pp. 290-306.

_____ and Eva Lövbrand, "Planting Trees to Mitigate Climate Change: Contested Discourses of Ecological Modernization, Green Governmentality and Civic Environmentalism" *Global Environmental Politics* 6 (1) (2006), pp. 51-75.

Barrera, Gisella, "New CERTFOR Standard for Native Forests", *PEFC News* 26 (July 2005).

Berger, Gerald, "Reflections on Governance: Power Relations and Policy Making in Regional Sustainable Development", *Journal of Environmental Policy and Planning*, 5 (3) 2003, pp. 219-234.

Bernstein, Johanna, "Sustainable Development Governance Challenges in the New Millennium", in *International Environmental Law-making and Diplomacy Review 2004* ed. Marko Berglund. Joensuu: University of Joensuu Department of Law, 2005, pp. 31-50.

Bernstein, Steven, "Liberal Environmentalism and Global Environmental Governance", *Global Environmental Politics* 2 (3) (2002), pp. 1-16

_____ and Benjamin Cashore, "Nonstate Global Governance: Is Forest Certification a Legitimate Alternative to a Global Forest Convention?" in *Hard Choices, Soft Law: Combining Trade, Environment, and Social Cohesion in Global Governance*. Aldershot: Ashgate Press, 2004, pp. 33-64.

Bichsel, Anne, "NGOs as Agents of Public Accountability and Democratisation in Intergovernmental Forums" in *Democracy and the Environment* ed. William M. Lafferty and James Meadowcroft. Cheltenham and Lyme: Edward Elgar, 1996, pp. 234-255.

Birnie, Patricia, "The UN and the Environment" in *United Nations, Divided World: The UN's Roles in International Relations* ed. Adam Roberts and Benedict Kingsbury. Oxford: Oxford University Press, 2000, pp. 327-383.

Blomgren Bingham, Lisa, Rosemary O'Leary and Tina Nabatchi, "Legal Frameworks for the New Governance: Processes for Citizen Participation in the Work of Government", *National Civic Review*, (Spring) (2005), pp. 54-61.

Boström, Magnus, "How State-Dependent is a Non-State-Driven Rule-Making Project? The Case of Forest Certification in Sweden", *Journal of Environmental Policy & Planning* 5 (2) (2003), pp. 165-180.

_____ "Regulatory Credibility and Authority through Inclusiveness: Standardization Organizations in Cases of Eco-labelling", *Organization* 13 (3) (2006), pp. 345-367.

Boyer, Brook, "Multilateral Negotiation Simulation Exercise: The Sustainable Management and Conservation of Forests" *International Environmental Law-making and Diplomacy Review 2005* ed. Marko Berglund. Joensuu: University of Joensuu Press, 2005, pp. 299-310.

Bradbury, Roger, "Are Indicators Yesterday's News?" in *Tracking Progress: Linking Environment and Economy through Indicators and Accounting Systems*. Conference Papers. 1996 Australian Academy of Science Fenner Conference on the Environment. Sydney: Institute of Environmental Studies, The University of New South Wales, 1996. Reproduced at <http://www.tjurunga.com/biography/roger-papers.html> accessed 15/09/07.

Briggs, Susan L. K., "Do Environmental Management Systems Improve Performance?" *Quality Progress* 39 (9) (2006), p. 78.

Caruso, Emily and Leontien Krul, "Special FERN-FPP Report: UNFF Failing its Mandate – 4th Session of the United Nations Forum on Forests" *EU Forest Watch* (June 2004), pp. 1-3.

Cadman, Tim, "Theory and Practice of Non-state Participation in Environmental and Forest-related Decision-making" in *International Environmental Law-making and Diplomacy Review 2005* ed. Marko Berglund (Joensuu: University of Joensuu Department of Law, 2006), pp. 155-178.

Capistrano, Doris, Markku Kanninen, Manuel Guariguata, Chris Barr, Terry Sunderland and David Raitzer, "Revitalizing the UNFF: Critical Issues and Ways Forward", paper prepared for the Country-led Initiative on Multi-year Programme of Work of the United Nations Forum on Forests: Charting the Way Forward to 2015, Bali, Indonesia, 13-16 February 2007.

Callanan, Mark, "Institutionalizing Participation and Governance? New Participative Structures in Local Government in Ireland", *Public Administration* 83 (4) (2005), pp. 909-929.

Canadian Standards Authority, "About ISO/TC 207", <http://www.TC207.org>, accessed 10/05/07.

Caruso, Emily and Leontien Krul, "Special FERN-FPP Report: UNFF Failing its Mandate – 4th Session of the United Nations Forum on Forests" *EU Forest Watch* (June 2004), pp. 1-3.

Cashore, Benjamin, Fred Gale, Errol Meidinger and Deanna Newsom, *Confronting Sustainability: Forest Certification in Developing and Transitioning Countries*. New Haven: Yale Forestry and Environmental Studies Series, 2006.

____ Graeme Auld and Deanna Newsom, *Governing Through Markets: Forest Certification and the Emergence of Non-State Authority*. New Haven and London: Yale University Press, 2004.

____ "Forest Certification (Eco-labelling) Programs and their Policy-making Authority: Explaining Divergence Among North American and European Case Studies", *Forest Policy and Economics* 5 (2003) pp. 225-247.

____ Elizabeth Egan ____ "Revising Theories of Nonstate Market-Driven (NSMD) Governance: Lessons from the Finnish Forest Certification Experience", *Global Environmental Politics* 7 (1) (2007), pp. 1-44.

Clapp, Jennifer, "Global Environmental Governance for Corporate Responsibility and Accountability", *Global Environmental Politics* 5 (3) (2005), pp. 23-34.

____ "Standard Inequities" in *Voluntary Initiatives: The New Politics of Corporate Greening*, ed. Robert B. Gibson. Peterborough: Broadview Press, 1999.

____ "The Privatization of Global Environmental Governance: ISO 14000 and the Developing World", *Global Governance* 4 (3) (1998), pp. 295-316.

Coglianesi, Cary, *Is Consensus an Appropriate Basis for Regulatory Policy?* Cambridge MA: Harvard University Press, 2000.

Combined New Zealand Environmental NGOs, “Letter of Inquiry to Scientific Certification Systems (SCS) on Their Certification of Fletcher Challenge Forests (NZ)”, dated April 2001.

Counsell, Simon, *Trickery Or Truth? An Examination Of The Effectiveness Of The Forest Stewardship Council*. London: The Rainforest Foundation, 1999.

_____ and Kim Terje Loraas, *Trading in Credibility: The Myth and Reality of the Forest Stewardship Council*. London and Oslø: Rainforest Foundation, 2002.

Courville, Sasha, “Social Accountability Audits: Challenging or Defending Democratic Governance?” *Law and Policy* 25 (3) (2003), pp 269-297.

_____ “Understanding NGO-Based Social and Environmental Regulatory Systems: Why We Need New Models of Accountability”, paper presented to the workshop Accountability in a Complex World: Conceptualizing Constitutional and Regulatory Efficacy in the Face of Globalization and Privatized Governance, 14-15 March 2003, New York, 23 pp.

Crowfoot, James E. and Wondolleck, Julia M., *Environmental Disputes: Community Involvement in Conflict Resolution*. Washington and Clovello: Island Press, 1990.

Department of Economic and Social Affairs/Secretariat of the United Nations Forum on Forests, Department of Economic and Social Affairs/UNFF Secretariat, “Implementation of Proposals for Action Agreed by Intergovernmental Panel on Forests and by Intergovernmental Forum on Forests (IPF/IFF) Action for Sustainable Forest Management”, December 2005.

_____ “Frequently Asked Questions”, <http://www.un.org/esa/forests/faq.html>, accessed 15/03/07.

_____ “United Nation Forum on Forests. Global Partnership: For Forests For People”, Fact Sheet 1 (2004), <http://www.un.org/esa/forests/factsheet.pdf>, accessed 28/10/04.

Dimitrov, Radoslav S., “Hostage to Norms: States, Institutions and Global Forest Politics”, *Global Environmental Politics* 5 (4) (2005), pp. 1-24.

Dobson, Andrew, “Representative Democracy and the Environment” in *Democracy and the Environment* ed. William M. Lafferty and James Meadowcroft. Cheltenham, and Lyme: Edward Elgar, 1996, pp. 124-139.

Donovan, Richard Z., Luis Fernando, Guedes Pinto and Lineu Siqueira “Withdrawal of Aracruz Riocell Guaíba Forest Management Certificate”, letter to FSC stakeholders (24 May, 2006).

Dorf, Michael, and Charles Sabel, “A Constitution of Democratic Experimentalism”, *Columbia Law Review*, 98 (2) (1998), pp. 267-473.

Dryzek, John, *Discursive Democracy*. Cambridge: Cambridge University Press, 1990.

_____ *The Politics of the Earth: Environmental Discourses*. New York: Oxford University Press, 1990.

Earth Negotiations Bulletin, “Draft Decision for Adoption by ECOSOC”, 13 (133), p. 12.

_____ “A Brief Analysis of UNFF-5”, 13 (133) (2005), p. 14.

- ____ “A Brief Analysis of UNFF-6”, 13 (144) (2006), p. 11.
- ____ “Annex: MYPOW for 2007-2015”, 13 (162) (2007), p. 16.
- ____ “Ministerial Declaration”, 13 (133) (2005), p. 1
- ____ “Multi-stakeholder Dialogue”, 13 (133) (2005), p. 3.
- ____ “Opening Statements”, 13 (144) (2006), p. 3.
- ____ “Polite Listening: Engaging Civil Society”, 13 (116) (2004), pp. 9-10.
- ____ “Quo Vadis: Contemplating the Post-UNFF Era”, 13 (116) (2004), p. 11.
- ____ “Report of the Ad Hoc Expert Group on Parameters” 13 (133) (2005), p. 4.
- ____ “Summary of the Sixth Session of the United Nations Forum on Forests: 13-24 February 2006”, 13 (144) (2006), p. 1.
- ____ “The Future of the International Arrangement on Forests”, 13 (144) (2006), p. 12.
- ____ “The MPOW: Not Just Another Shopping List”, 13 (162) (2007), pp. 16-18.
- ____ “The NLBI: Where’s The Meat?” 13 (162) (2007), p. 18.
- ____ “The Role of UNFF and Other Players”, 13 (150) (2006), p. 11.
- ____ “Things to Look For Today”, 13 (100) (2003), p. 2.
- ____ “UNFF-5 Closing Statements” 13 (133) (2005), p. 12.
- ____ “Whither the Trees?” 13 (144) (2006), p. 11.
- Eberlein, Burkard, and Dieter Kerwer, “New Governance in the European Union: A Theoretical Perspective”, *Journal of Common Market Studies* 42 (1) pp. 121-142.
- ECOSOC, “Economic Commission for Europe, Committee for Trade, Industry and Enterprise Development, Working party on Technical Harmonization and Standardization Policies, Twelfth Session, 28-30 October 2002, Item 8(b) of the Provisional Agenda, Environmental Management Standards, Summary of the Main Results of the Tenth Annual Meeting of ISO/TC 207”, Document TRADE/WP.6/2002/12 (October, 2002).
- ____ “Report of the Fourth Session of the Intergovernmental Forum on Forests,” 18 October 2000, <http://www.un.org/documents/ecosoc/dec/2000/edec2000-inf2-add3.pdf>, accessed 15/03/03.
- Edwards, Brad, Jill Gravender, Annette Killmer, Genia Schenke and Mel Willis, *The Effectiveness of ISO 14001 in the United States*. Santa Barbara: Donald Bren School of Environmental Science & Management, University of California, 1999.
- Edwards, Mark, “Australia - A Change in the Woods”, *PEFC News* 16 (October 2003), p. 3.
- Elliott, Christopher, *Forest Certification: A Policy Perspective*. Bogor: Center for International Forestry Research, 2000.
- EU Forest Watch*, “Presentation of the Pan European Forest Certification Scheme”, 29, (December 1998) <http://www.FERN.org>, accessed 20/09/02.
- Evison, Irene, *FSC National Initiatives Manual*. Oaxaca: Forest Stewardship Council A.C., 1998.

Ezzy, Douglas, *Qualitative Analysis: Practice and Innovation* (Crows Nest: Allen & Unwin, 2002).

Falkner, Robert, "Private Environmental Governance and International Relations: Exploring the Links", *Global Environmental Politics* 3(2) (2003) pp. 72-87.

Farrell, Katherine N., "Recapturing Fugitive Power: Epistemology, Complexity and Democracy", *Local Environment* 9 (5) (2003), pp. 469-470.

FERN, "Major Group Participation in the UNFF What Does it Mean?" undated.

Finnish Forest Industries Federation, "Finnish Forest Industries Need Raw Material from Certified Forests", media release 07/09/2000.

____ "Increased credibility for Finnish Forest Certification Approach through European Co-operation", media release 25/08/1998.

____ "Industry fully supports the Finnish Forest Certification System (FFCS) - FSC-Labeling of Products Becomes Available, Too?" media release 28/10/1998.

Fiorino, Daniel, "Environmental Policy and the Participation Gap" in *Democracy and the Environment: Problems and Prospects* ed. William M. Lafferty and James Meadowcroft. Cheltenham and Lyme: Edward Elgar, 1996, pp. 194-212.

____ "Rethinking Environmental Regulation: Perspectives on Law and Governance", *The Harvard Environmental Law Review* 23(2) (1999) pp. 441-469.

Folke, Carl, Thomas Hahn, Per Olsson and Jon Norberg, "Adaptive Governance of Social-Ecological Systems", *Annual Review of Environment and Resources*, 30 (2005), pp. 441-473.

Forest Stewardship Council, *10 years of FSC 1993-2003 Looking to the Future* (Bonn: Forest Stewardship Council A.C., 2004).

____ "About FSC – FAQs", http://www.fsc.org/en/about/about_fsc/faqs, accessed 21/06/07.

____ "About FSC - History", http://www.fsc.org/en/about/about_fsc/history, accessed 21/06/07.

____ "About FSC – Services", http://www.fsc.org/en/about/about_fsc/services, accessed 21/06/07.

____ "About the Forest Stewardship Council – FSC", <http://www.fsc.org/about-fsc.html>, accessed 03/11/08.

____ "Accreditation", <http://www.fsc.org/en/about/accreditation>, accessed 21/06/07.

____ "Accreditation – Accreditation of Certification Bodies", <http://www.fsc.org/en/about/accreditation/accred-certbod>, accessed 21/06/07.

____ "Accreditation – Accreditation of Forest Stewardship Standards", http://www.fsc.org/en/about/accreditation/accred_fss, accessed 21/06/07.

____ "Accreditation – Accreditation of National Initiatives", http://www.fsc.org/en/about/accreditation/accred_ni, accessed 21/06/07.

____ "Announcement. Expanded Review and Revision of the FSC Principles and Criteria (FSC-STD-01-001 Version 4.0)" (undated).

____ *2001 Annual Report: Charting Our Future* (Oaxaca: Forest Stewardship Council A.C., undated).

- ____ *Annual Report 1999*. Oaxaca: Forest Stewardship Council A.C., 1999.
- ____ *Annual Report 2000*. Bonn: FSC International Center, undated.
- ____ “Chain of Custody Certification Reports”, Standard FSC-STD-20-010 Version 2.1 EN, November 2004.
- ____ “Final Motions and Results from FSC General Assembly 2002” (undated).
- ____ “Final Motions and Results From the FSC General Assembly 2008” (undated).
- ____ “Forest Certification Reports”, FSC Standard FSC-STD-20-008 Version 2.1, November 2004.
- ____ “Forest Certification Public Summary Reports”, FSC Standard FSC-STD-20-009, Version 2.1 EN, November 2004.
- ____ “Forest Management Evaluation”, FSC Standard FSC-STD-20-007 Version 2.1, November 2004.
- ____ “Forest Pre-evaluation Visits”, FSC Standard FSC-STD-20-005, Version 2.1, November 2004.
- ____ *Forest Stewardship Council 2000 Annual Report*. Oaxaca: Forest Stewardship Council, 2000.
- ____ “Forest Stewardship Council A.C. By-Laws”, Document 1.1 ratified September 1994; editorial revision, October 1996; revised February 1999, August 2000, November 2002, June 2005 and June 2006.
- ____ “Forest Stewardship Council Interim Dispute Resolution Protocol”, Document 1.4.3, adopted January 1998.
- ____ “FSC Accredited Certification Bodies”, Document 5.3.1, 06 June 2007.
- ____ “FSC Accredited Forest Stewardship Standards”, 30 March 2007.
- ____ “FSC Chain of Custody Standard for Companies Supplying and Manufacturing FSC-Certified Products”, FSC Standard FSC-STD-40-004, Version 1.0, September 2004.
- ____ “FSC Controlled Wood Standard for Forest Management Enterprises” FSC Standard FSC-STD-30-010 Version 2.0 EN, October 2006.
- ____ “FSC Governance Review Process Final Proposals Based on Consultative Process Held During 2007-2008”, October 3, 2008.
- ____ “FSC National Initiatives”, Document 5.1.2, 05 June 2007.
- ____ “FSC Plantations Review Policy Working Group Final Report”, October 2006.
- ____ “FSC Plantations Review Report from the First Policy Working Group meeting”, March, 2005.
- ____ “FSC Principles and Criteria for Forest Stewardship” FSC Standard FSC-STD-01-001 Version 4.0, approved 1993, amended 1996, 1999 and 2002.
- ____ “FSC Requirements for the Promotional Use of FSC Trademarks by FSC Certificate Holders and Non-certified Commercial Organizations” FSC Standard FSC-TMK-50-201, Version 1.0 EN, April 2007.

____ “FSC Social Strategy: Building and Implementing a Social Agenda”, version 2.1, February 2003.

____ “FSC Standard for Forest Management Enterprises Supplying Non FSC-Certified Controlled Wood”, FSC Standard FSC-STD-30-010, Version 1.0, September 2004.

____ “FSC Standard for Non FSC-Certified Controlled Wood”, FSC Standard FSC-STD-40-005, Version 1.0, September 2004.

____ “General Requirements for FSC Accredited Certification Bodies: Application of ISO/IEC Guide 65:1996 (E)”, FSC Standard FSC-STD-20-001, Version 2.1, November 2004.

____ “Governance – Membership Chambers”,
http://www.fsc.org/en/about/governance/membership_chambers, accessed 21/06/07.

____ “Governance – Executive Director”,
http://www.fsc.org/en/about/governance/executive_director, accessed 21/06/07.

____ “FSC Governance Review”, <http://www.fsc.org/governance-review.html>, accessed 15/01/08.

____ “Local Adaptation of Certification Body Generic Forest Stewardship Standards”, FSC Standard FSC-STD-20-003 Version 2-1, November 2004.

____ “Minutes of the Forest Stewardship Council General Assembly Oaxaca, Mexico, 24-25 June 1999”.

____ “News”, June 08, 2008, <http://www.old.fsc.org/plantations.html>, accessed 15/01/09.

____ “Qualifications for FSC Certification Body Auditors”, FSC Standard FSC-STD-20-004 Version 2.2, November 2005.

____ “Process for Developing FSC Forest Stewardship Standards”, FSC Standard FSC-STD-60-006 version 2.1, revised May 2005 and October 2005.

____ “Response to the Rainforest Foundation Report ‘Trading in Credibility’”, public statement dated 27/02/03.

____ “Review Process” <http://www.old.fsc.org/plantations>, accessed 10/07/07.

____ “Stakeholder Consultation for Forest Evaluation”, FSC Standard FSC-STD-20-006, Version 2.1, November 2004.

____ “Standard for Company Evaluation of FSC Controlled Wood” FSC Standard FSC-STD-40-005 Version 2.1 EN, October 2006.

____ “Standard for Evaluation of FSC Controlled Wood in Forest Management Enterprises” FSC Standard FSC-STD-20-012 Version 1.0 EN, March 2007.

____ “Statutes”, Document 1.3, revised August 2000, November 2002 and June 2005.

____ “Structure and Content of Forest Stewardship Standards”, FSC Standard FSC-STD-20-002 Version 2.1 revised May 2005 and October 2005.

____ “The Development and Approval of FSC International Standards”, FSC Standard FSC-PRO-01-001 Version 1.0, November 2004.

FSC News and Notes, “A First Step Forward for the Plantations Review”, 2 (8/9) (2004), p. 3.

FSC News and Notes Annual Review 2003, 3 (1) (2004).

FSC News and Notes Annual Review 2006, 5 (1) (2007).

FSC News and Notes, “FSC Plantations Review Policy Working Group Completes its Task”, 4 (9) (2006), p. 1.

FSC News and Notes Annual Review 2005, “Plantations, the Challenge Ahead”, 4 (1) (2006), p. 11.

Gale, Fred, *The Tropical Timber Trade Regime*. Basingstoke and London: Macmillan Press, 1998.

_____ and Cheri Burda, “The Pitfalls and Potential of Eco-certification as a Market Incentive for Sustainable Forest Management” in *The Wealth of Forests: Markets, Regulation, and Sustainable Forestry* ed. Chris Tollefson. Paperback reprint. Vancouver: UBC Press, 1999, pp. 278-296.

Gaventa, John, “Making Rights Real: Exploring Citizenship, Participation and Accountability”, *Journal of International Development Studies* 33 (2) (2002) pp. 1-11.

Geddes, Barabara, “How the Cases You Choose Affect the Answers You Get: Selection Bias in Comparative Politics” *Political Analysis* 2 (1990) 131-150.

Gill, Elisabeth, “Norway - ENGO Withdraws from Revision Process”, *PEFC News* 16 (October 2003), p. 7.

_____ “Norway - Living Forests Revision Process Started”, *PEFCC Newsletter* 15, (May 2003) p. 5.

_____ “Unfounded Criticism of Norway’s Forest Owners Federation by WWF” *PEFCC Newsletter* 8 (October 2001), pp. 3-4.

Glasbergen, Pieter, “Learning to Manage the Environment” in *Democracy and the Environment: Problems and Prospects*, ed. William M. Lafferty and James Meadowcroft. Cheltenham and Lyme: Edward Elgar, 1996, pp. 175-193.

Glück, Peter, Jeremy Rayner, Benjamin Cashore, Arun Agrawal, Steven Bernstein, Doris Capistrano, Karl Hogl, Bernd-Markus Liss, Connie McDermott, Jagmohan S. Maini, Tapani Oksanen, Pekka Ollonqvist, Helga Pülzl, Rwald Rametsteiner and Werner Pleschberger, “Changes in the Governance of Forest Resources”, in *Forests in the Global Balance* ed. G. Mery, R. Alfaro, M. Kaninnen, and M. Lobovikov (Helsinki: IUFRO, 2005), pp. 51-74.

Gulbrandsen, Lars H., “Explaining Different Approaches to Voluntary Standards: A study of Forest Certification Choices in Norway and Sweden”, *Journal of Environmental Policy and Planning* 7 (1) (2005) pp. 43-59

_____ “Overlapping Public and Private Governance: Can Forest Certification Fill the Gaps in the Global Forest Regime?” *Global Environmental Politics* 4 (2) (2004), pp. 75-99.

_____ “Sustainable Forestry in Sweden: The Effect of Competition Among Private Certification Schemes”, *The Journal of Environment & Development*, 14 (3) (2005), pp. 338-355.

- _____. "The Effectiveness of Non-State Governance Schemes: A Comparative Study of Forest Certification in Norway and Sweden" *International Environmental Agreements* 5 (2) (2005), pp. 125-149.
- Gullison, R. E., "Does Forest Certification Conserve Biodiversity?" *Oryx* 37 (2) (2003), pp. 153-165.
- Gunnerberg, Ben, "Editorial", *PEFC News* 24 (February 2005), p. 1.
- _____. "General Assembly Synopsis" *PEFCC News Special* (December 2002), p. 1.
- _____. "PEFC Forging Ahead!" *PEFCC Newsletter* 11 (June 2002), p. 1.
- Haas, Peter, M., "Addressing the Global Governance Deficit", *Global Environmental Politics* 4 (4) (2004), pp. 1-15.
- _____. "International Institutions and Social Learning in the Management of Global Environmental Risks", *Policy Studies Journal* 28(3) (2000), pp. 558-575.
- _____. "UN Conferences and Constructivist Governance of the Environment", *Global Governance* 8 (1) (2002), pp. 73-91.
- Habermas, Jürgen, *A Critique of Functionalist Reason* (2). Cambridge: Polity Press, 1987.
- _____. *Between Facts and Norms: Contributions to a Discourse Theory of Law and Democracy*. Oxford: Blackwell, 1996.
- Hague, Rod and Martin Harrop, *Comparative Government and Politics An Introduction*. Seventh edition. Basingstoke and London: Palgrave Macmillan, 2007.
- Hardin, Garrett, "The Tragedy of the Commons", *Science*, 162 (3859) (1968), pp. 1243-1248.
- Haufler, Virginia, *A Public Role for the Private Sector: Industry Self-regulation*. Washington: Carnegie Endowment for International Peace, 2001.
- Hauselmann, Pierre, *ISO Inside Out: ISO and Environmental Management*. Second edition. Godalming: WWF International, 1997.
- Heaton, Kate, "Smart Wood Program" in *International Conference on Certification and Labelling of Products from Sustainably Managed Forests* ed. Lorraine Cairnes. Canberra: Australian Government Publishing Service, 1996, p. 69.
- Held, David, "Executive to Cosmopolitan Multilateralism" in *Taming Globalization: Frontiers of Governance*, ed. David Held and Mathias Koenig-Archibugi. Cambridge: Polity Press, 2003, pp. 174-177.
- _____. Anthony G. McGrew, David Goldblatt and Jonathan Perraton, *Global Transformations: Politics, Economics and Culture*. London: Polity Press, 1999.
- Herzog, Gabriele, "Austria - More Than Three Quarters of Austria's Forests Certified", *PEFCC Newsletter* 9 (December 2001), pp. 6-7.
- _____. "PEFC Austria - Totally Compliant with Austrian Law - Issues First Logo Licenses", *PEFCC Newsletter* 8 (July 2001), p. 5.
- Hickey, Gordon M. and John L. Innes, "Monitoring Sustainable Forest Management in Different Jurisdictions", *Environmental Monitoring and Assessment* 108 (2005) pp. 241-260.

Hirst, Paul, "Democracy and Governance", in *Debating Governance: Authority, Steering and Democracy*, ed. Jon Pierre. Oxford and New York: Oxford University Press, 2000 pp. 13-35.

Hortensius, Dick, "ISO 14000 and Forestry Management: ISO Develops 'Bridging' Document", *ISO 9000-ISO 14000 NEWS* 4 (1999), pp. 11-20.

Howlett, Michael and Jeremy Rayner, "Globalization and Governance Capacity: Explaining Divergence in National Forest Programs as Instances of 'Next Generation' Regulation in Canada and Europe", *Governance*, 19 (2) (2006), pp. 251-275.

Humphreys, David, *Forest Politics: the Evolution of International Cooperation*. London: Earthscan, 1996.

____ Logjam: Deforestation and the Crisis of Global Governance. London: Earthscan, 2006.

____ "Redefining the Issues: NGO Influence on International Forest Negotiations", *Global Environmental Politics* 4 (2) (2004), pp. 51-74.

____ "The Certification Wars: Forest Certification Schemes as Sites for Trade-environment Conflicts", paper presented to the privatizing environmental governance panel at the 46th annual convention of the International Studies Association Honolulu, Hawaii 1-5 March 2005.

Hysing, E. and Jan Olsson, "Sustainability Through good Advice? Assessing the Governance of Swedish Forest Biodiversity", *Environmental Politics* 14 (4) (2005), pp. 510-526.

IISD-ISO, "A Background Paper to the International Organization for Standardization's (ISO) Strategic Advisory Group on Corporate Social Responsibility", CSR Briefing #1 (January 2003).

INNI, "ISO 14000 and EMS INNI Articles", <http://inni.pacinst.org/inni/EMS.htm#NGOCAG>, accessed 28/10/08

____ "ISO/TC 207 Approves Workplan to Improve NGO Participation", media release (18/01/05), <http://inni.pacinst.org/inni/NGO.htm>, accessed 02/05/07.

____ "Drafting of ISO Social responsibility Standard Begins", media release (07/03/06), <http://inni.pacinst.org/inni/CSR.htm#SocialResponsibility>, accessed 02/05/07.

____ "First Drafts of ISO's Water Management Standards Approved", media release (21/07/05), <http://inni.pacinst.org/inni/Water.htm#FinalizationOf>, accessed 03/05/07.

____ "Improving the ISO 26000 Standard Development Process", media release (31/07/06), <http://inni.pacinst.org/inni/CSR.htm#SocialResponsibility>, accessed 02/05/07.

____ "NGO Task Force Submits to TC207 Its First Deliverable to Improve Balanced Participation", media release 20/05/07, <http://inni.pacinst.org/inni/EMS.htm#NGOCAG>, accessed 28/10/08.

____ "NGO Task Group Within ISO's Environmental Committee Develops Operational Guidance to Improve Stakeholder Involvement" media release (3/7/2006), <http://inni.pacinst.org/inni/EMS.htm>, accessed 02/05/07.

____ “Report from the ISO/TC 207 2005 Plenary Meeting”, media release (17/10/05), <http://inni.pacinst.org/inni/EMS.htm>, accessed 02/05/07.

Inoguchi, Takashi and Paul Bacon, “Governance, Democracy, Consolidation and the ‘End of Transition’” *Japanese Journal of Political Science* 4 (2) (2003), pp. 169-190.

ISEAL, “Setting Social and Environmental Standards: A Research Report on Existing Standard-setting Practices, R028 – Public Draft 1, August 2003” <http://www.isealalliance.org>, accessed 26/10/04.

ISO, “Committee Structure”, http://www.TC207.org/struc_detail.asp?group=SC7, accessed 18/06/08.

____ “How ISO Decides What Standards are Developed”, <http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 02/05/07.

____ “How the ISO system is financed”, <http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 02/05/07.

____ “How the ISO system is managed”, <http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 02/05/07.

____ ISO 14001 Environmental Management Systems - Specifications with Guidance for Use. Geneva: ISO, 1996.

____ “ISO’s membership rises to 150 countries”, media release (20/04/05), <http://www.iso.org/iso/pressrelease.htm?refid=ref955>, accessed 19/06/08.

____ “ISO’s Structure”, <http://www.iso.org/iso/structure>, accessed 18/06/08.

____ My ISO Job: Guidance For Delegates and Experts. Geneva: ISO Central Secretariat, 2005.

____ “Overview of the ISO system”, <http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 24/04/07.

____ “Stages in the Development of International Standards”, <http://www.TC207.org>, accessed 10/05/07.

____ *Statutes and Rules of Procedure*. Fourteenth edition. Geneva: ISO, 2000.

____ “Who can join ISO”, <http://www.iso.org/iso/en/aboutiso/introduction/index.html>, accessed 02/05/07.

ISO/TC 207, “Business Plan ISO/TC 207 Environmental Management”, N726R0/CAG N 376R3 Version 3 (June, 2005).

____ “Communiqué 6th Annual Meeting of ISO/TC 207 on Environmental Management”, N283 (June, 1998).

____ “Communiqué 8th Annual Meeting of ISO/TC 207 on Environmental Management”, N429 REV 01:2000-07-10 (June, 2000).

____ “Communiqué 13th Annual Meeting of ISO/TC 207 on Environmental Management”, CAG N386 (September, 2005).

____ “Draft ISO/TC 207 Proposed Process to Identify Stakeholder Balance at ISO/TC 207 Meetings”, ISO/TC 207 CAG N439R1 (undated).

____ “Draft: Recommendations for an Improved Balance of Stakeholder Participation in ISO TC 207”, CAG N437R1 (April, 2007).

_____. “Increasing the Effectiveness of NGO Participation in ISO TC 207”, N590 Rev/ISO/TC NGO TG N28 (June, 2003).

_____. “ISO’s Membership Rises to 150 Countries”, media release (20/04/05), <http://www.iso.org/iso/pressrelease.htm?refid=ref955>, accessed 19/06/08.

ISO/TC 207 NGO-CAG Task Force, “Phase 1 of Workplan”, Interim Report Final Draft (September, 2004).

Jänicke, Martin, “Conditions for Environmental Policy Success: An International Comparison”, *The Environmentalist* 12 (1992), pp. 47-58.

_____. “Democracy as a Condition for Environmental Policy Success: the Importance of Non-institutional Factors”, in *Democracy and the Environment: Problems and Prospects*, ed. William M. Lafferty and James Meadowcroft. Cheltenham and Lyme: Edward Elgar, 1996, pp. 71-85.

Jordan, Andrew, Rüdiger K. W. Wurzel and Anthony Zito, “The Rise of ‘New’ Policy Instruments in Comparative Perspectives: Has Governance Eclipsed Government?” *Political Studies* 53 (2005) pp. 441-469.

Kaivola, Auvo, “Finland - First Revised SFM Version Expected in November” *PEFCC Newsletter* 12 (September 2002), p. 6.

_____. “Ongoing Debate about Forestry and Reindeer Husbandry in Upper Lapland in Finland” *PEFC News* 25 (April 2005) p. 8

_____. “Revision of Forest Certification Requirements Under Way in Finland” *PEFCC Newsletter* 11 (June 2002), p. 7.

Keck, Margaret E. and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics*. New York: Cornell University Press, 1998.

Keohane, Robert O., “Global Governance and Democratic Accountability”, in *Taming Globalization: Frontiers of Governance*, ed. David Held and Mathias Koenig-Archibugi. Cambridge: Polity Press, 2003, pp. 130-159.

Kerwer, Dieter, “Governing Financial Markets by International Standards”, in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* ed. Mathias Koenig-Archibugi, and Michael Zürn. Basingstoke and London: Palgrave Macmillan, 2006.

King, Andrew A., Michael J. Lenox, Ann Terlaak, “The Strategic Use of Decentralized Institutions: Exploring Certification with the ISO 14001 Management Standard”, *Academy of Management Journal*, 48 (6) (2005), pp. 1091-1106.

Kjaer, Anne Mette, *Governance*. Cambridge and Malden MA: Polity Press, 2004.

Koenig-Archibugi, Mathias, “Introduction: Institutional Diversity in Global Governance”, in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* Mathias Koenig-Archibugi, and Michael Zürn. Basingstoke and London: Palgrave Macmillan, 2006, pp. 1-30.

Köllicker, A., “Conclusion 1: Governance and Public Goods Theory”, in *New Modes of Governance in the Global System: Exploring Publicness, Delegation and Inclusiveness* Mathias Koenig-Archibugi, and Michael Zürn. Basingstoke and London: Palgrave Macmillan, 2006, pp. 201-235.

Kollman Kelly and Aseem Prakash, "EMS-based Environmental Regimes as Club Goods: Examining Variations in Firm-level Adoption of ISO 14001 and EMAS in U.K., U.S. and Germany", *Policy Sciences* 35 (2002), pp. 43-67.

Kooiman, Jan, "Findings, Speculations and Recommendations in *Modern Governance: New Government Society Interactions* ed. Jan Kooiman. London: Sage, 1993, pp. 249-262.

____ "Social-Political Governance: Introduction" in *Modern Governance: New Government Society Interactions* ed. Jan Kooiman. London: Sage, 1993, pp. 1-8.

____ "Societal Governance: Levels, Models, and Orders of Social-Political Interaction" in *Debating Governance: Authority, Steering and Democracy* ed. Jon Pierre. Oxford: Oxford University Press, 2000, pp. 138-166.

Korsbakken, Ivar and Svein Søgne, "Norwegian Forest Owners Warn of Trade Barriers", *PEFC News* 35 (January 2007), p. 11.

Krul, Leontien, Tom Griffiths and Saskia Ozinga, "Live or Let Die? An Evaluation of the Fifth Session of the United Nations Forum on Forests", *FERN Special Report*, July 2005, p. 3.

Lafferty, William M., and James Meadowcroft, "Democracy and the Environment: Prospects for Greater Congruence" in *Democracy and the Environment: Problems and Prospects*, ed. William M. Lafferty and James Meadowcroft. Cheltenham and Lyme: Edward Elgar, 1996, pp. 256-272.

Lammerts van Beuren Erik M. and Esther M. Blom, *Hierarchical Framework for the Formulation of Sustainable Forest Management Standards*. Leiden: The Tropenbos Foundation, 1997.

Leslie, Andrew D., "The Impacts and Mechanics of Certification", *International Forestry Review* 6 (1) (2004) pp. 30-39.

Liimatainen, Matti and Sini Harkki, *Anything Goes? Report on PEFC Certified Forestry*. Helsinki: Greenpeace Nordic and the Finnish Nature League, 2001.

Lindström, Tommy, Eric Hansen and Heikki Juslin, "Forest Certification: The View from Europe's NIPFs", *Journal of Forestry* 97 (3) (1999), pp. 25-30.

Link, Sharon and Eitan Naveh, "Standardization and Discretion: Does the Environmental Standard ISO 14001 Lead to Performance Benefits?" *IEEE Transactions on Engineering Management* 53 (4) (2006), pp. 508-519.

Lipschutz, Ronnie D., and Judith Mayer, *Global Civil Society: The Politics of Nature from Place to Planet*. New York: State University of New York Press, 1996.

Mackendrick, Norah A., "The Role of the State in Voluntary Environmental Reform: A Case Study of Public Land", *Policy Sciences* 38 (2005), pp. 21-44.

Mankin, Bill, "MY POW or Yours? Choosing a Leadership Agenda for the UNFF", unpublished paper prepared for CIFOR, January 2007

Mäntyranta, Hannes, *Forest Certification - An Ideal That Became an Absolute*, translation by Heli Mäntyranta. Helsinki: Metsälehti Kustannus, 2002.

Mason, Michael, *Environmental Democracy*. New York: St Martin's Press, 1999.

Mastenbroek, Ellen, "EU Compliance: Still a 'Black Hole'?" *Journal of European Public Policy* 12 (6) (2005), pp. 1103-1120.

May, Peter, "Regulation and Compliance Motivations: Examining Different Approaches", *Public Administration Review* 34 (65) (1) (2005), pp. 31-44.

MCPFE, "Report on the Follow-Up of the Strasbourg and Helsinki Ministerial Conferences on the Protection of Forests in Europe", *Follow-up Reports on the Ministerial Conferences on the Protection of Forests in Europe*, ed. Liaison Unit in Lisbon. Volume 1. Lisbon: Ministry of Agriculture, Rural Development and Fisheries of Portugal, 1998.

_____, "Sustainable Forest Management in Europe, Special Report on the Follow-up on the Implementation of Resolutions H1 and H2 of the Helsinki Ministerial Conference", *Follow-up Reports on the Ministerial Conferences on the Protection of Forests in Europe*, ed. Liaison Unit in Lisbon. Volume 2. Lisbon: Ministry of Agriculture, Rural Development and Fisheries of Portugal, 1998.

Meidinger, Errol, "Forest Certification as a Global Civil Society Regulatory Institution" in *Social and Political Dimensions of Forest Certification* ed. Errol Meidinger, Christopher Elliott, and Gerhard Oesten. Remagen-Oberwinter: Forstbuch, 2003, pp. 265-292.

_____, "The Administrative Law of Global Private-Public Regulation: The Case of Forestry", *European Journal of International Law* 17 (1) (2006), pp. 47-87.

Montréal Process, Criteria and Indicators for the Conservation and Sustainable Management of Temperate and Boreal Forest Ecosystems. Second edition. Unknown location: Montréal Process, 1999.

Morikawa, Mari and Jason Morrison, Who develops ISO Standards? A Survey of Participation in ISO's International Standards Development Processes. Oakland: Pacific Institute, 2004.

Naka, Kozma, A. L. Hammett and William B. Stuart, "Forest Certification: Stakeholders, Constraints and Effects", *Local Environment* 4 (5) (2000), pp. 475-481.

Nanz, Patrizia, and Steff, Jens, "Assessing the Democratic Quality of Deliberation in International Governance: Criteria and Research Strategies", *Acta Politica*, 40 (3) (2005), pp. 368-383.

Newman, Janet, Marian Barnes, Helen Sullivan and Andrew Knops, "Public Participation and Collaborative Governance", *Journal of Social Politics* 33 (2) (2004), pp. 203-223.

Nussbaum, Ruth, and Markku Simula, *Forest Certification Handbook*. London: Earthscan, 2005.

Oberthür, Sebastian, Matthias Buck, Sebastian Müller, Stefanie Pfahl, Richard G. Tarasofsky, Jacob Werksman, Alice Palmer, Participation of Non-governmental Organisations in International Environmental Governance: Legal Basis and Practical Experience. Berlin: Ecologic/Centre for International and European Environmental Research, 2002.

O'Donnell, Guillermo, *Delegative Democracy. Counterpoints: Selected Essays on Authoritarianism and Democratization*. Notre Dame: University of Notre Dame Press, 1999, pp. 159-174.

O'Dwyer, Conor and Daniel Ziblatt, "Does Decentralisation Make Government More Efficient and Effective?" *Commonwealth & Comparative Politics* 44, (3)(2006) pp. 326-343.

Olsen, Tanja, "PEFC Certification Denmark", *PEFC News* 23 (December 2004), p. 5.

Ostrom, Elinor, *Governing the Commons: the Evolution of Institutions for Collective Action*. Cambridge: Cambridge University Press, 1990.

Overdevest, Christine, "Codes of Conduct and Standard Setting in the Forest Sector Constructing Markets for Democracy?" *Relations Industrielles/Industrial Relations* 59 (1) (2004), pp. 172-197.

Ozinga, Saskia, *Behind the Logo: An Environmental and Social Assessment of Forest Certification Schemes (Moreton-in-Marsh: Fern, 2001)*.

_____, *Footprints in the Forest: Current Practice and Future Challenges in Forest Certification*. Moreton-in-Marsh: FERN, 2004.

_____, "The European NGO Position on the PEFC", presentation on behalf of FERN to the Pan-European Forest Certification (PEFC) Seminar and Workshop, Würzburg, April 19-21, 1999.

Palmujoki, Eero, "Public-private Governance Patterns and Environmental Sustainability", *Environment, Development and Sustainability* 8 (2006), pp. 1-17.

Parto, Saeed, "Aiming Low", in *Voluntary Initiatives: The New Politics of Corporate Greening*, ed. Robert B. Gibson. Peterborough: Broadview Press, 1999.

Pattberg, Phillip H., "The Forest Stewardship Council: Risk and Potential of Private Forest Governance", *Journal of Environment and Development* 14 (3) (2005), pp. 356-374.

_____, "The Institutionalization of Private Governance: How Business and Nonprofit Organizations Agree on Transnational Rules" *Governance: An international Journal of Policy, Administration, and Institutions* 18 (4) (2005), pp. 589-610.

_____, "What Role for Private Rule-Making in Global Environmental Governance? Analysing the Forest Stewardship Council (FSC)" *International Environmental Agreements* 5 (2) (2005), pp. 175-189.

PEFC, *Annual Review 2006*. Luxembourg: PEFC, undated.

_____, "A Short History", http://www.pefc.org/internet/html/about_PEFC/4_1137_498.htm accessed 14/06/2007.

_____, "Basis for Certification Schemes and their Implementation", Annex 3, 29 October 2004.

_____, "Certification and Accreditation Procedures", Annex 6, 11 April 2005.

_____, "Chain of Custody of Forest Based Products – Requirements", Annex 4, June 17 2005.

_____, "Endorsement and Mutual Recognition of National Schemes and their Revision", Annex 7, 29 October 2004.

_____, "PEFC Council Minimum Requirements Checklist", GL 2/2005, revised 28 April 2005.

____ “PEFC Council Position Statement on Recent WWF Press Release on Austrian Forest Certification Scheme”, media release 08/05/2001.

____ “PEFC Council Statutes”, As Approved at General Assembly 22 November 2002.

____ “PEFC Council Technical Document”, 29 October 2004.

____ “PEFC in Figures”,
http://www.pefc.org/internet/html/about_pefc/4_1137_515.htm accessed 14/06/2007.

____ “PEFC is the World’s Largest Forest Certification Organisation”,
<http://www.pefc.org/internet/html/> accessed 03/11/08.

____ “Rules for Standards Setting”, Annex 2, 29 October 2004.

PEFCC Newsletter, “Globalisation”, 14 (February 2003), p. 1.

____ “Guidelines Revision”, 14 (February 2003), p. 2.

____ “Revised PEFCC Guidelines Approved”, *PEFCC Newsletter* 15 (May 2003), p. 4.

____ “PEFC Austria is on the Road to Success - WWF Accusations ‘Substantially Wrong’”, 7 (July 2001), p. 5.

____ “PEFC Chairman to Visit Gabon to Discuss Feasibility of Pan African Forest Certification System”, (December 2002), p. 3.

____ “Some New Faces on the PEFC Council”, 7 (July 2001), p. 2.

____ “Statistics on Main Forest Certification Schemes”, 7 (July 2001), p. 1.

PEFCC News Special, “Continuing Globalisation of the PEFC Council” (December 2002), p. 2.

____ “Did you Know? PEFC Wants People to Manage Forests Sustainably”, fact sheet (April 2007), p. 3.

____ “Position Paper: Tribal and Indigenous People, Local People, Local Communities, Forest Dependent Communities and the PEFC Council”, November 2005.

PEFC Germany, “Position of PEFC Germany Concerning the FERN-Report ‘Behind the Logo’” <http://www.pefc.de/vergleich/behind.htm> accessed 19/06/2007.

PEFC News, “Alteration to the PEFC Name”, 17 (November 2003), p. 4.

____ “Assessment of Forest Certification Systems”, 37 (May 2007), p. 3.

____ “Australia – A Change in the Woods”, 16 (October 2003), p. 3.

____ “Belgian Public Procurement Policy Includes PEFC”, 31 (May 2006) p. 2.

____ “Election of New Board of Directors”, 17 (November 2003), pp. 5-8.

____ “ENGO Conference”, 18 (February 2004), p. 3.

____ “EU Parliament Regards PEFC and FSC as Equally Suitable”, 30 (March 2005), p. 1.

____ “European Toy Producers Treat PEFC and FSC Equally”, 33 (October 2006), p. 1.

- ____ “First ENGO Symposium”, 20 (May 2004), p. 1.
- ____ “German Government Specifies PEFC”, 36 (March 2007), p. 1.
- ____ “Governmental Shopper’s Guides Recommend PEFC”, 33 (October 2006), p. 2.
- ____ “International Accreditation Forum”, 19 (March 2004), p. 1.
- ____ “International Chain of Custody”, 18 (February 2004), p. 1.
- ____ “International ENGO Platform Supporting PEFC Certification”, 25 (April 2005), p. 2.
- ____ “Japanese Public Procurement Policy Chooses PEFC”, 31 (May 2006), p. 1.
- ____ “Key Note Speech by Peter Seligmann from Conservation International”, 34 (November 2006), p. 2.
- ____ “New International PEFC Chain of Custody Released”, 22 (November 2004), p. 7.
- ____ “PEFC Chosen for French Government Timber procurement Policy”, 25 (April 2005), p. 1.
- ____ “PEFC Council Global Statistics”, 37 (May 2007), p. 3.
- ____ “PEFC Granted Observer Status in MCPFE”, 35 (January 2007), p. 4.
- ____ “PEFC: Only European? Based On Merely a Handful of Criteria? Not For Indigenous People? No Social Dialogue...?”, 37 (May 2007), p. 2.
- ____ “PEFC Open Letter To The World Bank And WWF”, 21 (September 2004), p. 1.
- ____ “PEFC Praised for its Social Criteria”, 33 (October 2006), p. 1.
- ____ “PEFC Sweden Publishes Policy on Sámi Reindeer Herding”, 31 (May 2006) p. 1.
- ____ “UK Government Confirms PEFC as Source of Legal and Sustainable Timber” 35 (January 2007), p. 1.
- ____ “UK Government Timber Procurement Policy Continues to Recognize PEFC Certified Timber, 26 (July 2005), p. 3
- ____ “PEFC – World’s Largest Resource of Certified Wood”, 29 (January 2006), p. 1.
- Perrons, Dianne, *Globalization and Social Change: People and Places in a Divided World*. London: Routledge, 2004.
- Persson, R., “Where is the United Nations Forum on Forests Going?” *International Forestry Review*, 7 (4) (2005), pp. 348-357.
- Peters, B. Guy, “Governance and Comparative Politics”, in *Debating Governance: Authority, Steering and Democracy* ed. Jon Pierre. Oxford: Oxford University Press, 2000, pp. 37-51.
- Pierre, Jon, and B. Guy Peters, *Governance, Politics and the State*. Basingstoke and London: Macmillan, 2000.
- Plauche-Gillon, Henri, “Extracts from the Chairman’s Report on Activities in 2003/2004”, *PEFC News* 22 (November 2004), p. 3.

Potoski, Matthew and Aseem Prakash, "Green Clubs and Voluntary Governance: ISO 14001 and Firms' Regulatory Compliance", *American Journal of Political Science*, 49 (2) (2005), pp. 235-248.

_____, "Regulatory Convergence in Nongovernmental Regimes? Cross-National Adoption of ISO 14001 Certifications" *The Journal of Politics* 66 (3) (2004), pp. 885-905.

Price, Trevor J., "ISO 14001: Transition to Champion?" *Environmental Quality Management* Spring (2007).

Raines, Susan Summers, "Judicious Incentives: International Public Policy Responses to the Globalization of Environmental Management" *Review of Policy Research*, 23 (2) (2006) pp. 473-490.

_____, "Perceptions of Legitimacy and Efficacy in International Environmental Management Standards: The Impact of the Participation Gap", *Global Environmental Politics* 3 (3) (2003), pp. 47-78

Rehinder, Eckhard, "Forest Certification and Environmental Law", in *Social and Political Dimensions of Forest Certification* ed. Errol Meidinger, Christopher Elliott, and Gerhard Oesten (Remagen-Oberwinter: Forstbuch, 2003), pp. 331-351.

Reuben, William, "The Role of Civic Engagement and Social Accountability in the Governance Equation", *Social Development Notes* 75 (2003).

Rezende, Maria Teresa, "Forum of Environmental NGOs and Brazilian Industries" *PEFC News* 36 (March 2007), p. 5.

Rhodes, Rod A. W., "The New Governance: Governing Without Government", *Political Studies* 44 (1996) pp. 652-667.

_____, *Understanding Governance: Policy Networks, Governance, Reflexivity and Accountability*. Buckingham: Open University Press, 1997.

Robinson, Dawn, and Brown, Larianne. *The SLIMFs Initiative: A Progress Report. Increasing Access to FSC Certification for Small and Low Intensity Managed Forests*. Oaxaca: Forest Stewardship Council, 2002.

Romeijn, Paul, *Green Gold: on Variations in Truth in Plantation Forestry*. Heelsum: Treemail, 1999.

Rosenau, James, "Change, Complexity and Governance in a Globalising Space", in *Debating Governance: Authority, Steering and Democracy* ed. Jon Pierre. Oxford and New York: Oxford University Press, 2000, pp. 167-200.

_____, *Distant Proximities: Dynamics Beyond Globalization* (Princeton and Oxford: Princeton University Press, 2003).

Royal Forest and Bird Protection Society, Greenpeace NZ, World Wide Fund For Nature NZ, Environment and Conservation Organisations of NZ, Native Forest Action, Friends of the Earth NZ, Native Forest Network – Southern Hemisphere, Federated Mountain Clubs of NZ "Letter to FSC Accredited Forest Management Certifiers", dated 12/03/01.

Ruggie, John G., "Taking Embedded Liberalism Global: The Corporate Connection" in *Taming Globalisation: Frontiers of Governance* ed. David Held and Mathias Koenig-Archibugi. Cambridge: Polity Press, 2003.

Salomon, Lester, "The New Governance and the Tools of Public Action: An Introduction", *The Tools of Government: A Guide to the New Governance* ed. Lester Saloman. Oxford: Oxford University Press, 2002.

Savcor Indufor Oy, Effectiveness and Efficiency of FSC and PEFC Forest Certification on Pilot Areas in Nordic Countries. Helsinki: Federation of Nordic Forest Owners' Organisations, 2005.

Scholte, Jan A., "Civil Society and Democratically Accountable Global Governance", *Government and Opposition* (2004), pp. 211-233.

Schutzhgemeinschaft Deutscher Wald Landesverband Bayern e.V., *Jahresbericht 2005*.

Scruse, Hannah, and Anders Lindhe, *Developing Forest Stewardship Standards – A Survival Guide*. Jokkmokk: Taiga Rescue Network, 2001.

Shannon, Margaret, "What is Meant by Public Participation in Forest Certification Processes? Understanding Forest Certification Within Democratic Governance Institutions", *Social and Political Dimensions of Forest Certification*, ed Errol Meiginger, Christopher Elliott and Gerhard Oesten. Remagen-Oberwinter: Forstbuch, 2003, pp. 179-198

Simmons, Richard and Johnston Birchall, "A Joined-up Approach to user Participation in Public Services: Strengthening the 'Participation Chain'" *Social Policy and Administration* 39 (3) (2005), pp. 260-283.

Simula, Anna-Leena, "Finnish Forest certification System (FFCS) and its Compatibility with International Certification Systems", presentation on behalf of MTK Forestry Group to the Pan-European Forest Certification (PEFC) Seminar and Workshop, Würzburg, April 19-21, 1999.

Simula, Markku, "Key Elements in the International certification Procedures: Review of the Pan European Certification", paper presented to the Pan-European Forest Certification (PEFC) Seminar and Workshop, Würzburg, April 19-21, 1999.

Skjærseth, Jon Birger, Olav Schram Stokke and Jørgen Wettestad, "Soft Law, Hard Law, and Effective Implementation", *Global Environmental Politics* 6 (3) (2006), pp. 104-120.

Slob, Bart and Gerard Oonk, *The ISO Working Group on Social Responsibility: Developing the Future ISO SR 26000 Standard*. Amsterdam: SOMO/Centre for Research on Multinational Corporations, 2007.

Smismans, Stijn, *Law, Legitimacy, and European Governance*. Oxford: Oxford University Press, 2004.

Social Development Notes, "The Role of Civic Engagement and Social Accountability in the Governance Equation" issue 75 (2003).

Sonnenfeld, David and Arthur Mol, "Globalization and the Transformation of Environmental Governance: An Introduction", *American Behavioral Scientist*, 45(9)(2002) pp. 1318-1339.

Spickard, James, "Human Rights, Religious Conflict, and Globalisation: Ultimate Values in a New World Order", *International Journal on Multicultural Societies* 1(1) (1999) pp. 2-20.

Stiglitz, Joseph E., "Globalization and Development", in *Taming Globalisation: Frontiers of Governance* ed. David Held and Mathias Koenig-Archibugi. Cambridge: Polity Press, 2003, pp. 47-67.

Stoker, Gerry, "Governance as Theory: Five Propositions", *International Social Science Journal*, 50 (155) (1998), pp. 17-28.

Susskind, Lawrence, *Environmental Diplomacy: Negotiating More Effective Global Agreements*. New York and Oxford: Oxford University Press, 2004.

Széll, Patrick, "Introduction to the Discussion on Compliance", *International Environmental Law-making and Diplomacy Review 2004* ed. Marko Berglund (Joensuu: University of Joensuu Department of Law, 2005) pp. 117-123.

Takeuchi, Haruyoshi, "PEFC Asia Promotions Initiative", *PEFC News* 18 (February 2004), p. 3

Tambini, Damian, "Post-national Citizenship", *Ethnic and Racial Studies* 24 (2) (2001) pp. 195-217.

Teegelbekkers, Dirk, "Germany - Chain-of-Custody", *PEFC News* 16 (October 2003), p. 5

_____, "Chain-of-Custody Certificates Increasing in Germany", *PEFCC Newsletter* 14 (February 2003), p. 6.

_____, "ENGOS Invited to Witness the Auditing Process in Germany", *PEFCC Newsletter* 7 (July 2001), pp. 5-6.

_____, "Forest Certification - Experiences With PEFC in Germany" presentation on behalf of PEFC Germany to the Seminar on Strategies for the Sound Use of Wood, Poiana Brasov, Romania, 24-27 March 2003.

_____, "Germany - Forest Owners Protest Against Discrimination" *PEFCC Newsletter* 11 (June 2002), p. 5.

_____, "Germany - Over 5 Million Hectares Already Certified", *PEFCC Newsletter*, 9 (December, 2001), p. 5.

The Wilderness Society, *Certifying the Incredible, The Australian Forestry Standard. Barely Legal and not Sustainable*. No location: The Wilderness Society, 2005.

Thinnes, Michèle, "ENGOS Join PEFC", *PEFC News* 33 (October 2006), p. 4.

Thornber, Kirsti, "Certification: A Discussion of Equity Issues" in *Social and Political Dimension of Forest Certification*, ed. Errol Meidinger, Christopher Elliott and Gehard Oesten. Remagen-Oberwinter: Forstbuch, 2003, pp. 63-82.

Tibor, Tom and Ira Feldman, *ISO 14000: A Guide to the New Environmental Management Standards*. Chicago, London and Singapore: Irwin Professional Publishing, 1996.

Tollefson, Chris, Fred Gale, and David Haley, *Setting the Standard: Certification, Governance and the Forest Stewardship Council*. Vancouver: UBC Press, 2008.

Tomsic, Mateus and Urban Vehovar, "Kakovost Vladanja v Starih in Novih Clanicah Evropske Unije" (The Quality of Governance in Old and New EU Member-States), *Teorija in Praksa*, 43 (3-4) (2006), pp. 386-405.

UN, *Agenda 21: Programme of Action for Sustainable Development, Rio Declaration on Environment and Development, Statement of Forest Principles*. New York: United Nations Publications Department of Public Information, 1993.

____ “Collaborative Partnership on Forests Framework 2003”, UN Document E/CN.18/2003/INF/1, 20 March 2003.

____ “Eight-Country Initiative, Shaping the Programme of Work for the United Nations Forum on Forests (UNFF) International Expert Consultation 27 November – 1 December 2000 Report of the Expert Consultation”, UN Document E/CN.18/2001/2 (December 2005).

____ “Multi-stakeholder Dialogue Note by the Secretariat. Addendum. Discussion Paper Contributed by the Business and Industry Major Group,” UN Document E/CN.18/2005/3/Add.1, 24 March 2005.

____ “Multi-stakeholder Dialogue Note by the Secretariat. Addendum. Discussion Paper Contributed by the Non-governmental Organizations Major Group,” E/CN.18/2005/3/Add.4, 24 March 2005.

____ “Multi-stakeholder Dialogue on Sustainable Forest Management,” UN Document E/CN.18/2002/10, 21 December 2001.

____ “Non-legally Binding Instrument on All Types of Forests”, UN Document A/c.2/62/L.5, 22 October 2007.

____ “United Nations Forum on Forests Bureau of the Sixth Session (UNFF 6 Bureau)” minutes of the fourth meeting, 25-26 January 2006, p. 2.

____ “United Nations Forum on Forests”, <http://www.un.org/esa/forests/> accessed 03/11/08.

____ “United Nations Forum on Forests Report of the Fifth Session”, UN Document E/2005/42-E/CN.18/2005/18, 14 May 2004 and 16 to 27 May 2005.

____ “United Nations Forum on Forests Report on the Fourth Session”, UN Document E/2004/42 E/CN.18/2004/17, 6 June 2003 and 3 to 14 May 2004.

____ “United Nations Forum on Forests Report on the Organizational and First Sessions”, UN Document E/2001/42/Rev.1-E/CN.18/2001/3/Rev.1, 12 and 16 February and 11-22 June 2001.

____ “United Nations Forum on Forests Report on the Second Session”, UN Document E/2002/42-E/CN.18/2002/42, 22 June 2001 and 4 to 15 March 2002.

____ “United Nations Forum on Forests Report of the Seventh Session”, UN Document E/2007/42 E/CN.18/2007/8, 24 February 2006 and 16-27 April 2007.

____ “United Nations Forum on Forests Report of the Sixth Session”, UN Document E/2006/42-E/CN.18/2006/18, 27 May 2005 and 13-24 February 2006.

____ “United Nations Forum on Forests Report on the Third Session”, UN Document E/2003/42-E/CN.18/2003/13, 15 March 2002 and 26 May to 6 June 2003.

UNFF Secretariat, “Review of the Effectiveness of the International Arrangement on Forests Analytical Study”, undated.

Van Kersbergen, Kees and Frans Van Waarden, “‘Governance’ as a Bridge Between Disciplines: Cross-disciplinary Inspiration Regarding Shifts in

Governance and Problems of Governability, Accountability and Legitimacy”, *European Journal of Political Research* 43 (2004), pp. 143-171.

Vallejo, Nancy and Pierre Hauselmann, *Governance and Multi-stakeholder Processes*. Winnipeg: International Institute for Sustainable Development, 2004.

____ PEFC: *An Analysis*. Pullu: WWF, 2001.

Van Vliet, Martijn, “Environmental Regulation of Business: Options and Constraints for Communicative Governance”, in *Modern Governance: New Government Society Interactions* ed. Jan Kooiman. London: Sage, 1993, pp. 105-118.

Vereinigung Deutscher Gewässerschutz, “Über Uns”, http://www.vdg-online.de/ueber_uns.html accessed 19/06/2007.

Verolme, Hans J.H., William E. Mankin, Saskia Ozinga and Sophia Ryder, *Keeping the Promise? A Review by NGOs and IPOs of the Implementation of the UN Inter-governmental Panel on Forests “Proposals for Actions” in Select Countries* (Washington: Biodiversity Action Network – Tides Project/Global Forest Policy Project, 2000)

Vogt, Kristina A., Bruce C. Larson, John C. Gordon, Daniel J. Vogt and Anna Fanzeres, A., *Forest Certification: Roots, Issues, Challenges and Benefits* (Boca Raton: CRC Press, 2000).

Warren, Michael E., “What Can Democratic Participation Mean Today?” *Political Theory* 30 (5) (2002) pp. 677-701.

Wettestad, Jørgen, “Designing Effective Environmental Regimes: The Conditional Keys” *Global Governance* 7(3) (2001) pp. 317-341.

World Rainforest Movement, *Certifying the Uncertifiable: FSC Certification of Tree Plantations in Thailand and Brazil* ed. Larry Lohmann. Montevideo and Moreton-in-Marsh: World Rainforest Movement, 2003.

____ *FSC: Unsustainable Certification of Large Scale Tree Plantations*. Montevideo and Moreton-in-Marsh: World Rainforest Movement, 2001.

Young, Iris M., *Inclusion and Democracy*. Oxford: Oxford University Press, 2000.

Young, Oran R., “Hitting the Mark: Why are Some Environmental Agreements More Effective Than Others?” *Environment* 20 (1999), reproduced in *Making Law Work: Environmental Compliance & Sustainable Development*, ed. Durwood Zaelke, Donald Kainaru and Eva Kružíková. London: Cameron May, 2005, volume 1, pp. 187-200.

____ and Levy, Mark A., “The Effectiveness of International Environmental regimes”, in *The Effectiveness of International Environmental Regimes: Causal Connections and Behavioural Mechanisms* ed. Young, O. R. (Cambridge MA: MIT Press, 1999).

Yrjö-Koskinen, Eero, Matti Liimatainen and Lotta Ruokanen, *Certifying Extinction? An Assessment of the Revised Standards of the Finnish Forest Certification System*. Helsinki: Greenpeace Finland, Finnish Association for Nature Conservation, Finnish Nature League, 2004.

Zaelke, Durwood, Donald Kainaru and Eva Kružiková (eds), *Making Law Work: Environmental Compliance & Sustainable Development*, volume 1. London: Cameron May, 2005.

Zovko, Ivana, “International Law-Making for the Environment: A Question of Effectiveness”, in *International Environmental Law-making and Diplomacy Review 2005* ed. Berglund, M. (Joensuu: University of Joensuu department of Law, 2006), pp. 109-128.

Zürn, Michael, and Mathias Koenig-Archibugi, “Conclusion II: Modes and Dynamics of Global Governance”, in *New Modes of Governance in the International System: Exploring Publicness, Delegation and Inclusion*, ed. Mathias Koenig-Archibugi and Michael Zürn. Basingstoke and London: Palgrave Macmillan, 2006, pp. 236-254.

Zyen and PEFC, “PEFC Governance Review May, 2008 Final Report”, May 2008.